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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1956

Debt Settlement

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its debt settlement regulations by increasing the approval authority for FmHA officials. It will authorize the State Director to approve a cancellation of Chapter 7 bankruptcies regardless of the amount. Also, to raise the State Director's approval authority on all other debt settlements when the outstanding balance of the indebtedness involved less the amount of a compromise or adjustment offer is less than $250,000. This action is necessary because the regulations presently only allow debts of $150,000 or less to be approved by the State Director, and anything greater must be approved by the Administrator. The intended effect of this action is to reduce the large volume of debt settlements submitted to the Administrator.

EFFECTIVE DATE: July 29, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas Baden, Senior Loan Officer, Farm Real Estate and Production Division, FmHA, Room 5443, South Building, Washington, DC 20250, Telephone (202) 475–4008.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management. FmHA determines that settlement of debts (including principal, interest, and other charges) in cases of Chapter 7 discharge in bankruptcy may be approved by a State Director regardless of the amount. Also to raise the State Director's approval authority on all other debt settlements when the outstanding balance of the indebtedness (including principal, interest, and other charges) involved less the amount of a compromise or adjustment offer is less than $250,000, and anything greater must be approved by the Administrator.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

This activity impacts the following programs listed in the Catalog of Federal Domestic Assistance under numbers:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Very Low and Low Income Housing Loans
10.411 Rural Housing Site Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants

Rural Housing Site Loans (10.411) and Soil and Water Loans (10.410) are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The other programs are excluded from intergovernmental consultation.

This document has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not needed.

Lists of Subjects in 7 CFR Part 1956

Accounting, Loan programs—Agriculture, Rural areas.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1956—DEBT SETTLEMENT

1. The authority citation for Part 1956 is to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Debt Settlement—Farmer Programs and Single Family Housing

2. Section 1956.58 is amended by revising paragraph (a) to read as follows:

§ 1956.58 Approval or rejection.

* * * * *

(a) *Approval authority.* Subject to this subpart, the compromise, adjustment, cancellation, or chargeoff of debts will be approved or rejected:

(1) Except as provided in paragraph (a)(2) of this section, by the State Director when the outstanding balance of the indebtedness involved in the settlement less the amount of a compromise or adjustment offer is less than $250,000 (including principal, interest, and other charges).

(2) The State Director may approve the cancellation of debts discharged in a chapter 7 bankruptcy in accordance with § 1956.70(b)(3) of this subpart regardless of the amount of the outstanding indebtedness.

(3) By the Administrator or designee when the outstanding balance of the indebtedness involved in the settlement less the amount of a compromise or adjustment offer is $250,000 or more (including principal, interest, and other charges).

* * * * *

Dated: June 26, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–17131 Filed 7–28–87; 8:45 am]
BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 87–066]

Contagious Equine Metritis (CEM); Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed quarantine provisions for areas in Kentucky and Missouri that were under quarantine because of the existence of contagious equine metritis (CEM). We are also removing the restrictions on the interstate movement of horses and other equidae from and through these areas. This action is necessary because there is no longer any known risk of spreading CEM to other areas.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. C.A. Gipson, VS, APHIS, USDA, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8321.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** and effective March 11, 1987 (52 FR 7403–7405, Docket Number 86–104), we amended the regulations concerning CEM by removing areas in Kentucky and Missouri from quarantine provisions because CEM no longer exists. We did not receive any comments, which were required to be filed on or before May 11, 1987. The facts presented in the interim rule still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

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

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

This document relieves unnecessary restrictions on the interstate movement of horses and other equidae because there is no risk of spreading contagious equine metritis. As a result of this rule, the equine industry can move animals without the additional certification required by quarantine regulations, and the owners of nine premises that had been quarantined can use the formerly quarantined areas in normal day-to-day operations.

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 75

Animal diseases, Contagious equine metritis, Dourine, Equine, Equine infectious anemia, Horses, Quarantine, Transportation.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

Accordingly, we are adopting as a final rule without change, the interim rule that amended 9 CFR Part 75 and that was published at 52 FR 7403–7405 on March 11, 1987.

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134–134(h); 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 24th day of July 1987.

J.K. Atwell,

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

[FR Doc. 87–17132 Filed 7–28–87; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 78

[Docket No. 87–081]

Brucellosis Regulations; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Technical amendment.

SUMMARY: We are correcting an error in the brucellosis regulations in § 78.41(b) concerning the classification of Georgia as having Class A status.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Jan D. Huber at (301) 436–5965.

SUPPLEMENTARY INFORMATION:

Background

Before publication of the final rule, Georgia was classified as having Class A status. However, Georgia was inadvertently omitted from the State/area classification list, § 78.41(b) of the regulations, when the final rule was published September 12, 1986 (51 FR 32574–32600, Docket No. 85–132; FR Doc. 86–20491, page 32596, third column, § 78.41, paragraph (b)). Therefore, we are correcting the regulations published September 12 to reflect Georgia as having Class A status.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, 9 CFR Part 78 is corrected as follows:

PART 78—BRUCELLOSIS

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (b), is amended by inserting "Georgia" immediately after "Colorado".

Done in Washington, DC, this 24th day of July 1987.

J. K. Atwell,

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

[FR Doc. 87–17134 Filed 7–28–87; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Parts 92 and 94

[Docket No. 87–071]

Change in Disease Status of Chile Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations by removing Chile from the list of countries free of rinderpest and foot-and-mouth disease. This action is necessary because the existence of foot-and-mouth disease has been confirmed in Chile. The effect of this action prohibits the importation into the United States from Chile of cattle, sheep, or other ruminants; swine; and the fresh, chilled, or frozen meats of those animals.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey Kryder, Import-Export and Emergency Planning Staff, VS, APHIS,

USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the Federal Register on March 17, 1987 (52 FR 8436–8437, Docket Number 87–043) and effective March 13, we amended the regulations by removing Chile from the list of countries declared free of rinderpest and foot-and-mouth disease. Comments were required to be filed on or before May 18, 1987. We received one comment in support of the interim rule. The facts presented in the interim rule still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

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

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

No importations of animals and products that are prohibited entry by this action—other than importations of llamas and alpacas—occurred during a 9-month period from June 29, 1983, to March 26, 1984, when Chile was recognized as free of foot-and-mouth disease. During that period, a total of 299 llamas and alpacas entered the United States.

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

Executive Order 12372

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

List of Subjects

9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

9 CFR Part 94

African swine fever, Animal diseases, Exotic newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Rinderpest, Swine vesicular disease.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 42 U.S.C. 4331; 4332; 7 CFR 2.17, 2.51, and 371.2(d).

Accordingly, we are adopting as a final rule without change, the interim rule that amended 9 CFR Parts 92 and 94, and that was published at 52 FR 8436–8437 on March 17, 1987.

Done in Washington, DC, this 24th day of July, 1987.

J.K. Atwell,

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

[FR Doc. 87–17133 Filed 7–28–87; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–188–AD; Amdt. 39–5692]

Airworthiness Directives: Airbus Industrie Models A300 and A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 and A310 series airplanes, which requires replacement of the nose landing gear drag strut upper attachment pin. This amendment is prompted by reports of pins which were found to be improperly manufactured. This condition, if not corrected, could result in failure of the pin and collapse of the nose landing gear.

EFFECTIVE DATE: September 3, 1987.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires replacement of the nose landing gear drag strut upper attachment pin on certain Airbus Industrie Model A300 and A310 series airplanes, was published in the Federal Register on September 29, 1986 (51 FR 34473).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters recommended extending the proposed compliance time from 600 landings to 2,000 landings. This would be consistent with the schedule given in the manufacturer's revised service bulletin, and operators have already established work schedules consistent with this data. The FAA concurs and has determined that no adverse impact on the safety of flight will be incurred by extending the proposed compliance time from "within the next 600 landings" to "within the next 2,000 landings." The final rule has been revised accordingly.

The cost estimate has been revised to reflect a decrease in the number of manhours required to accomplish the modification, and to include the cost for

required parts, based on the manufacturer's comments. Revision 1 to Service Bulletin A300–32–374, and Revision 2 to Service Bulletin A300–32–2023, which contain corrections and clarifications of previous service bulletins, have been cited in the final rule. These service bulletin revisions impose no additional adverse economic impact or additional burden on the operators.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes mentioned above.

It is estimated that 60 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Parts are estimated to be $3,300 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $214,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($3,580). 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 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:

Airbus Industrie: Applies to Airbus Industrie Model A300 and A310 airplanes listed in Airbus Industrie Service Bulletins A300–32–374, Revision 1, dated July 15, 1986, and A310–32–2023, Revision 2, dated February 20, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent collapse of the nose landing gear due to failure of the drag strut upper attachment pin, accomplish the following:

A. Prior to the accumulation of 16,000 landings or within the next 2,000 landings, whichever occurs later, replace the nose landing gear drag strut upper attachment pin in accordance with Airbus Industrie Service Bulletin A300–32–374, Revision 1, dated July 15, 1986 (applicable to Model A300 airplanes), or A310–32–2023, Revision 2, dated February 20, 1987 (applicable to Model A310 airplanes).

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

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 3, 1987.

Issued in Seattle, Washington, on July 21, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–17102 Filed 7–28–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–189–AD; Amdt. 39–5623]

Airworthiness Directives: Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Model A300 B2 and B4 series airplanes, which requires inspections for cracks in the wing top skin stringers joint at rib 9. This amendment is prompted by fatigue testing by the manufacturer, which has shown the development of cracks in this joint. This condition, if not corrected, could render the wing incapable of carrying required loads.

EFFECTIVE DATE: September 4, 1987.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires inspections for cracks in the top wing stringer joint at rib 9 on Airbus Industrie Model A300 B2 and B4 series airplanes, was published in the **Federal Register** on September 29, 1986 (51 FR 34474).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the only comment received.

The commenter requested the threshold times be changed to increase the proposed compliance period from 90 days to 3,800 cycles in order to allow the inspection to be scheduled at a main base. The FAA does not concur with this change; however, paragraph D. of the final rule does contains provisions for individual operators to adjust the compliance time if the adjustment provides an acceptable level of safety and is approved by FAA.

The commenter also stated that the threshold times reflected in the proposed rule were more restrictive than those recommended by the manufacturer, and cited Airbus Industrie Service Bulletin A300–58–077, Revision 1, dated December 15, 1979, as setting threshold times of 20,000 cycles for B2 airplanes and 17,000 cycles for B4 airplanes. The FAA does not concur and notes that the commenter's statement is incorrect. The threshold times indicated in Service Bulletin A300–58–077 relate, not to the inspections required by

paragraph A. of the AD, but to the optional modification described in paragraph C.

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

It is estimated that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 200 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $120,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model A300 airplanes are operated by small entities. 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 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:

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes, certificated in any category. To prevent the development of cracks which can lead to wing skin failure, accomplish the following within 90 days after the effective date of this AD, or upon reaching the threshold indicated below, whichever occurs later, unless already accomplished:

A. Inspect for cracks in the top skin of each wing at the level of rib 9 between front and rear spars, prior to the accumulation of 17,000 landings for B2 series airplanes, and prior to the accumulation of 14,200 landings for B4 series airplanes, in accordance with the accomplishment instructions of Airbus Industrie (AI) Service Bulletin A300–57–118, Revision 1, dated March 29, 1984. Thereafter, repeat the inspections at intervals not to exceed 7,600 landings.

B. If cracks are found during the inspections required by paragraph A., above, follow procedures described in Paragraph 1.C.(5) of AI Service Bulletin A300–57–118, Revision 1, dated March 29, 1984.

C. Incorporation of AI Modification 2099, as described in Airbus Service Bulletin A300–57–077, Revision 1, dated December 15, 1979, which replaces clearance fit HI–LOK bolts with taperlock bolts, constitutes terminating action for the inspection 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, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 4, 1987.

Issued in Seattle, Washington, on July 21, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–17103 Filed 7–28–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–38–AD; Amdt. 39–5686]

Airworthiness Directives: CASA Model C–212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CASA Model C–212 series airplanes, which requires installation of an artificial stall warning (ASW) system. This amendment is prompted by reports that inadequate natural stall warning may exist on CASA Model C–212 airplanes. This condition, if not corrected, could result in an inadvertent stall condition.

EFFECTIVE DATE: August 31, 1987.

ADDRESSES: The applicable service information may be obtained from Construcciones Aeronauticas S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur D. Scholes, Standardization Branch, ANM–113; telephone (206) 431–1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires installation of an artificial stall warning system on CASA Model C–212 series airplanes, was published in the **Federal Register** on April 10, 1987 (52 FR 11664).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter concurred with the NPRM in its entirety.

Several commenters stated that there was no need for an artificial stall warning system (ASW) on this airplane for various reasons, as follows:

a. Pilot training emphasis would be sufficient to prevent stall condition.

b. It should not be required because of a stricter interpretation by the FAA of the rules related to stall warning requirements.

c. There have been no accidents or other problems reported due to lack of stall warning.

d. There is adequate speed margin between operational speeds and stall speeds to make inadvertent stall improbable.

The FAA does not concur with the commenters. The FAA has found through service experience that the probability of encountering an inadvertent stall is sufficiently high, even with due consideration given to pilot training and operating speeds, to warrant a minimum level of adequate advance warning for impending stall. This level of stall warning is considered the minimum for safe operation as defined in Federal Aviation Regulation (FAR) 25.207. The interpretation of the rules related to stall warning requirements has not changed since 1974 when the CASA C–212 was certificated. The first indication to the FAA of

inadequate natural stall warning occurred during the FAA flight evaluation in March 1984, which precipitated a further FAA flight evaluation review in March 1987. Both flight evaluations concluded that the natural stall warning is inadequate and fails to meet the minimum safety requirement as specified in FAR 25.207(c), as follows: "The stall warning must begin at a speed exceeding the stalling speed [i.e., the speed at which the airplane stalls or the minimum speed demonstrated, whichever is applicable, under the provisions of § 25.201(d)] by seven percent or at any lesser margin if the stall warning has enough clarity, duration, distinctiveness, or similar properties."

Although there have been no reported accidents or incidents directly attributed to lack of adequate stall warning, this, in itself, is not considered a sufficient basis for concluding that an AD should not be issued to correct inadequate stall warning. The FAA agrees that normal operational speeds are well above the stall speeds; however, this does not protect against an inadvertent stall at speeds below normal. Adequate stall warning margins must be present in all configurations to prevent inadvertent aircraft stall under all foreseeable operating conditions. The FAA, therefore, disagrees with the comments that a stall warning system is not needed, and has determined that an airworthiness directive to require installation of an ASW system is appropriate.

Four commenters also expressed concern that the estimated costs for parts and labor, as proposed in the NPRM, were much less than it would actually cost to install an ASW system, and that these costs were out of proportion to any possible safety enhancement value. The manufacturer's distributing company, CASA USA, provided further cost estimates for the ASW system kit of $5,000 per airplane, an increase of manhours required to complete the installation to 63 hours per airplane, and a minimum of .5 hours of flight test time per airplane, for a total estimate cost to install the ASW system of $7,770 per airplane. These new estimated cost figures have been incorporated into the economic impact statement of this document.

The FAA does not concur that the risk associated with inadequate stall warning, which would be minimized by the installation of an ASW system, is not worth the required cost. Safety is the paramount concern in this issue, and cannot be dismissed solely because of financial considerations.

CASA USA also commented that, according to the manufacturer, the required parts could not be available sooner than November 1987. The FAA has considered this information and concurs that additional time is necessary to obtain and install required parts. The final rule has been revised to reflect a compliance date of January 31, 1988. The FAA has determined that this revision will not have a significant impact on the safety of flight.

Since issuance of the proposal, CASA issued Service Bulletin 212–31–12, dated May 12, 1987, which describes the installation of an artificial stall warning system. The final rule has been revised to reflect installation of an ASW system in accordance with the CASA service bulletin as an acceptable means of complying with the requirements of this AD.

After careful review of the available data, including the comments discussed above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously noted.

It is estimated that 40 airplanes of U.S. registry will be affected by this AD, that it will take approximately 63 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Estimated cost for parts is $5,000 per airplane, and estimated time for flight test is .5 hour at $250 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $310,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($7,770). 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 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:

CASA: Applies to all Model C–212 series airplanes, including Indonesian manufactured C–212's Serial Numbers 64N and 73N, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent inadvertent stalls, accomplish the following:

A. Prior to January 31, 1988, install an artificial stall warning system in accordance with CASA Service Bulletin S/B 212–31–12, dated May 12, 1987, or other manner approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

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

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Construcciones Aeronauticas S.A., Getafe, Madrid, Spain. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective August 31, 1987.

Issued in Seattle, Washington, on July 16, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–17098 Filed 7–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86-NM-157-AD; Amdt. 39-5687]

Airworthiness Directives: Lockheed-California Company Model L-188A and L-188C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model L-188A and L-188C series airplanes, which requires structural inspections and repairs or replacements, as necessary, to assure continued airworthiness. This amendment is prompted by a structural reevaluation which has identified certain structural details likely to develop fatigue cracks as these airplanes continue in operational service. This condition, if not corrected, could result in a compromise of the structural integrity of these airplanes.

DATE: Effective August 31, 1987.

ADDRESSES: The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65-33, U-33, B-1. 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. William Roberts, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulation to include a new airworthiness directive (AD), which requires structure inspection and repair on certain Lockheed Model L-188A & L-188C series airplanes to assure continued airworthiness, was published in the **Federal Register** on August 18, 1986 (51 FR 29475).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The manufacturer made three comments:

a. Statements in the preamble to the NPRM that referred to the Lockheed L-188's "design life goal" are incorrect, since the airplane does not have an operational life, as such. The manufacturer states that "when an adequate maintenance program is observed (including Supplemental Inspection Document (SID) recommendations), the Electra may be operated as long as an operator considers it to be a financially viable operation." The FAA agrees with the comment; however, no change to the final rule is necessary.

b. The final rule should be changed to require the use of both the original issue of Lockheed Report No. 29428, dated January 16, 1984, as well as Revision A, dated May 14, 1986, since Revision A is not complete within itself. The FAA concurs that Revision A is not complete within itself, and has revised the paragraph A. of the final rule to reflect both the original issue and Revision A.

c. The economic analysis should be changed to indicate that it would take 500 manhours *per operator* to prepare the program revision and not 500 manhours *per airplane*. The FAA agrees to the clarification as suggested, and the economic analysis has been changed accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously mentioned.

Approximately 60 airplanes of U.S. registry and 13 U.S. operators will be affected by this AD. It is estimated that it will take approximately 500 manhours per operator, at an average labor cost of $40 per manhour, to incorporate of the Supplemental Inspection Document (SID) into the FAA-approved maintenance program. Based on these figures, the total cost impact on U.S. operators to implement the requirements of this AD is estimated to be $260,000.

It will take approximately 250 manhours per airplane per year, at an average labor cost of $40 per manhour, to accomplish the inspections required by this AD. Based on these figures, the annual recurring cost of inspections to U.S. operators is estimated to be $600,000.

Based on the above figures, the total cost impact of this AD on U.S. operators is estimated to be $860,000 for the first year, and $600,000 for each year thereafter.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Model L-188 airplanes are operated by small entities. 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-California Company: Applies to Lockheed Model L-188A and L-188C airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

A. Within one year after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the requirements specified for the structurally significant details listed in Section III C. of Lockheed Report No. LR29428, dated January 16, 1984, and Revision A, dated May 14, 1986, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Cracks found in the structurally significant details as a result of the supplemental inspections required by paragraph A., above, must be repaired before further flight in accordance with an FAA-approved method.

C. Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base to accomplish the requirements of this AD.

D. 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 information from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65-33, U-

33, B-1. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective August 31, 1987.

Issued in Seattle, Washington, on July 16, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-17099 Filed 7-28-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 60464-6064]

Electronic Computers: Change in GLV Dollar Value Limit

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Supplement No. 1 to § 399.1 of the Export Administration Regulations (the Commodity Control List) identifies those items subject to Department of Commerce export controls. This rule amends entry 1565A of the Commodity Control List (electronic computers and "related equipment") by revising the "GLV $ Value Limit"—the maximum net value of a commodity covered by 1565A that may be exported under General License GLV. The GLV limit for 1565A is raised from $1,000 to $5,000 for exports to destinations in Country Groups T and V.

EFFECTIVE DATE: This rule is effective July 29, 1987.

FOR FURTHER INFORMATION CONTACT: John Black or Patricia Muldonian, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-2440. For questions of a technical nature regarding electronic computers and related equipment, contact Joseph Westlake, Computer Systems Technology Center, Export Administration, Telephone: (202) 377-4344.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedures Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule also is exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.).*

List of Subjects in 15 CFR Part 399

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 399 of the Export Administration Regulations (15 CFR Parts 368 through 399) is amended as follows:

PART 399—[AMENDED]

1. The authority citation for Part 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 50 U.S.C. 1701 *et seq.;* E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 (October 2, 1986); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§ 399.1 [Amended]

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1565A is amended by revising the GLV $ Value Limit to read "$5,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations."

Dated: July 24, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-17203 Filed 7-28-87; 8:45 am]

BILLING CODE 3510-DT-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Futures Commission Merchants; Financial Early Warning System

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted an amendment to its financial rules for futures commission merchants ("FCMs") to add another element to the financial early warning system. The amendment requires an FCM to notify its designated self-regulatory organization ("DSRO") and the Commission immediately when it determines an acount it is carrying to be undermargined by an amount that exceeds its adjusted net capital. This amendment is intended to enhance the effectiveness of the financial early warning system, the basic objective of which is, as the Commission has stated on several occasions, to afford the Commission and the appropriate industry self-regulatory organizations sufficient advance notice of an FCM's financial problems to allow the necessary protective action to be taken to insure the safety of the FCM itself, the FCM's customer funds and the integrity of the marketplace.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Gary C. Miller, Assistant Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission proposed to add another element to the financial early warning system when it proposed to make permanent the pilot program for exchange trading of options on non-agricultural futures contracts. 50 FR 35247 (August 30, 1985). The Commission noted in that release that it had recently proposed capital rule amendments in response to the failure of Volume Investors Corporation. 50 FR 35247, 35253–54.[1] The Commission stated its belief that "the problems at Volume Investors might have been detected earlier, and perhaps mitigated, had immediate notice of very substantial margin calls made by Volume to a group of accounts under common financial control been given to exchange or Commission personnel." 50 FR 35247, 35254. The Commission further stated that in a situation similar to that of Volume Investors, where an account becomes undermargined by such a magnitude that a default thereon would cause the FCM to become under capitalized, the FCM's DSRO and the Commission should be made aware of the undermargined status as soon as possible. The Commission therefore proposed Rule 1.12(f)(3) as an addition to the financial early warning system to require an FCM to notify its DSRO and the Commission immediately when it determines an account it is carrying to be undermargined by an amount that exceeds its excess adjusted net capital.

II. Comments on the Proposal

Five commenters addressed the Commission's proposed addition to the financial early warning system. The principal industry trade association representing FCMs supported the Commission proposal by stating:

> The proposed amendment to Regulation 1.12 is a useful addition to the early warning system already in place under the Commission regulations. The utilization of a DSRO's surveillance capabilities heightens the level of policing compliance with capital requirements. Thus, proposed subparagraph 1.12(f)(3) is both appropriate and feasible given capitalization requirements.

Four contract markets addressed this proposal. One contract market stated that the proposal "is a matter to be addressed principally by the FCM community." As noted above, the FCM community, through its trade association, supported the proposal. Another contract market stated that it "concurs with the Commission's objective in proposing this rule and agrees with the Commission that the DSRO should be notified when a margin call exceeds an FCM's adjusted net capital." This contract market noted, however, that certain large banks and other firms had established relatively thinly-capitalized subsidiaries for the primary purpose of clearing the parent firm's trades and as a result, margin calls to the parent frequently exceed the subsidiary's capitalization. The contract market recommended that some accommodation be made for such situations. Another contract market suggested that the proposal be implemented on a trial basis and the results studied before it is adopted permanently. Only one contract market expressed firm opposition to the proposal.

III. The Amended Rule

The Commission has carefully considered the comments received on the proposed addition to the financial early warning system and has determined to adopt Rule 1.12(f)(3) with certain changes to the proposal. The undermargined amount in an account must exceed the FCM's *entire* adjusted net capital, not simply the amount of excess adjusted net capital. Further, a DSRO may grant an exemption from the new rule to an FCM with respect to any particular account on a continuous basis provided the DSRO documents the reasons for granting such an exemption and continues to monitor any such account. Under that provision, subsidiary firms set up to clear a parent company's trades which believe that the new element of the early warning system will be unduly burdensome may seek relief.

Under the new rule, an immediate telephone call is encouraged, to be followed by telegraphic notice. The notification to the Commission should be directed to the Division of Trading and Markets. The rule applies generally to individual accounts and not to all of a firm's accounts on a cumulative basis. However, the rule also provides that if any person has an interest of 10 percent or more in ownership or equity in, or guarantees, more than one account, or guarantees an account in addition to his own account, the undermargined amounts of such accounts must be combined and notice must be given to the DSRO and the Commission if the combined undermargined amounts exceed the firm's adjusted net capital.

The Commission wishes to emphasize that Rule 1.12(f)(3) is intended, as are the other provisions of the financial early warning system, to allow protective action to be taken, and should not cause a firm to delay issuing a margin call. The Commission also wishes to emphasize, however, that the triggering event is the determination of undermargined status, rather than the issuance of a margin call, and thus an FCM cannot circumvent the rule merely by postponing the issuance of a margin call.

The Commission further notes that the industry trade association and one of the contract markets which generally supported proposed Rule 1.12(f)(3) also included in their suggested alternatives to the Commission's August 5, 1985 financial rule proposals, referred to in footnote 1 above, certain modifications to the financial early warning system. The Commission is aware that there are efforts underway to develop a uniform industry proposal for a risk-based minimum financial requirement for FCMs. If such a proposal were also to include any suggestions for amendments to the financial early warning system, the Commission would carefully review such suggestions and to take any further appropriate action.

IV. Other Matters

A. Regulatory Flexibility Act

When the Commission proposed Rule 1.12(f)(3), the Chairman certified, on behalf of the Commission, that the proposed amendment would not, if adopted, have a significant economic impact on a substantial number of small entities. 50 FR 35247, 35255. Since the amendment is being adopted as proposed, the amendment is in compliance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* (1982)) based on the Chairman's prior certification.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("Act"), 44 U.S.C. 3501 *et. seq.* (1982), imposes certain requirements on federal agencies (including the Commission) in conjunction with their conducting or sponsoring any collection of information as defined by the Act. In compliance with the Act, the Commission previously submitted this rule in proposed form to the Office of Management and Budget, as a portion of the package of rule amendments which were proposed in order to change the status of the non-agricultural commodity options program from pilot to permanent. 50 FR 35247 (August 30, 1985). This final rule is less stringent than the rule proposed at that time. Copies of the OMB approved information collection package (3038–0024) which contains this rule may be

[1] The Commission's resolution of those other capital rule proposals, which were originally published at 50 FR 31612 (August 5, 1985), is discussed in a **Federal Register** release published separately.

obtained from Bob Neal, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 1

Futures commission merchants, Minimum financial requirements, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 4f, 4g and 8a thereof, 7 U.S.C. 6c, 6f, 6g, and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: Sections 2(a)(1), 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 5, 5a, 6(a), 6(b), 6b, 6c, 8, 8a, 8c, 12, 15, 17 and 20 of the Commodity Exchange Act, 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h,6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, and 24.

2. Section 1.12 is amended by adding paragraph (f)(3) to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

* * * * *

(f) * * *

(3) Whenever a registered futures commission merchant determines that an account which it is carrying is undermargined by an amount which exceeds the futures commission merchant's adjusted net capital determined in accordance with § 1.17, the futures commission merchant must give immediate telegraphic notice of such a determination to the designated self-regulatory organization and the principal office of the Commission at Washington, DC. This paragraph (f)(3) shall apply to any account carried by the futures commission merchant, whether a customer, noncustomer, omnibus or proprietary account. For purposes of this paragraph (f)(3), if any person has an interest of 10 percent or more in ownership or equity in, or guarantees, more than one account, or has guaranteed an account in addition to his own account, all such accounts shall be combined. A designated self-regulatory organization may grant an exemption from the provisions of this paragraph to a futures commission merchant with respect to any particular account on a continuous basis provided the designated self-regulatory organization documents the reasons for granting such an exemption and continues to monitor any such account.

* * * * *

Issued in Washington, DC, July 23, 1987 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–17128 Filed 7–28–87; 8:45 am]

BILLING CODE 6351-01-M

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17 CFR Part 1

Debit/Deficit Accounts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted an amendment to its financial rules for futures commission merchants ("FCMs") regarding the treatment of an unsecured account that either contains a ledger balance and open trades which, when combined, liquidate to a deficit, or contains a debit ledger balance only ("debit/deficit account") for purposes of an FCM's computation of its adjusted net capital. The Commission's rules currently allow an FCM to treat a debt/deficit account as a current asset until the close of business on the business day following the date on which the deficit or debit ledger balance originated. The Commission had proposed to eliminate this one-day grace period, but has instead determined to adopt an alternative suggested by a commenter which would preserve the one-day grace period unless the account had been in debit/deficit status on the previous business day and the debit/deficit status had not been redressed but is augmented the following business day.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Gary C. Miller, Assistant Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission proposed various amendments to the minimum financial requirements for FCMs and introducing brokers ("IBs") following the financial failure of Volume Investors Corporation, which had been an FCM and a clearing member of the Commodity Exchange, Inc. 50 FR 31612 (August 5, 1985). The proposed rule amendments were intended to: (1) Clarify the treatment to be accorded to securities included in current assets, whether or not such securities are subject to repurchase agreements, and also clarify the treatment of repurchase agreements; (2) require FCMs to calculate a concentration charge in computing their adjusted net capital; (3) change the treatment of debit/deficit accounts; and (4) clarify the requirements for and the treatment of a guaranteed account. The Commission stated its belief that "recent market developments indicate the need for enhanced financial requirements so that FCMs and IBs will be better able to withstand adverse market movements without harm to themselves, their customers and other market participants." *Id.*[1]

After the Commission issued its proposals, the Securities and Exchange Commission ("SEC") proposed amendments to its rules concerning repurchase agreements. 51 FR 32658 (September 15, 1986). The SEC recently adopted those amendments. 52 FR 22295 (June 11, 1987). The Commission has stated that it will defer to the SEC with respect to the treatment of repurchase agreements. 50 FR 49859, 49860 (December 5, 1985). The CFTC's financial rules incorporate the SEC's financial rules in this area by reference. *See, e.g.*, 17 CFR 1.17(b)(1) and (c)(5)(v) (1987). The Commission's proposal to require FCMs to calculate a concentration charge in computing their adjusted net capital is being held in abeyance pending the submission of an industry alternative which is expected to contain a risk-based minimum capital requirement. The Commission today is separately reproposing to clarify the requirements for and the treatment of a guaranteed account. The fourth proposal published on August 5, 1985 was to change the treatment of debit/deficit accounts and the Commission has determined to adopt that proposal in a modified form in response to an alternative suggested by certain commenters as more fully discussed below.

II. The Debit/Deficit Account Proposal and Comments Thereon

The Commission proposed to amend Rule 1.17(c)(2)(i) (17 CFR 1.17(c)(2)(i)

[1] The Commission initially allowed sixty days for comments by interested persons on the proposals. Several comment period extensions were granted. 50 FR 39133 (September 27, 1985); 50 FR 45831 (November 4, 1985); 50 FR 44859 (December 5, 1985) and 51 FR 7285 (March 3, 1986). Ninety-two commenters submitted a total of 116 separate written comments on the proposals.

(1987)) to require that an FCM exclude from its current assets any account which is in a debit or deficit status as of the close of business on the day the account reaches that status, without allowing a one-day grace period as at present, on the theory that it is anomalous to count a negative amount as a credit. Although two commenters supported this proposal, there was substantial negative reaction. Most of the objections raised concerned operational difficulties. A majority of the commenters pointed out that the Federal Reserve's wire system for transferring funds closes prior to the closing of all futures markets, which would make it impossible to obtain funds from debit/deficit customers in those late-closing markets, even assuming there were an on-line tracking system to inform FCMs of all debit/deficit accounts as soon as trading closed. It was further noted by several commenters that FCM accounting systems are not set up with real-time tracking but instead accounts are processed overnight. Thus it is not until the following morning that FCMs receive a summary of customer accounts as of the close of business on the preceding business day, making it impossible for an FCM to know which customers are in a debit/deficit situation as of the day the event occurs. Certain commenters noted that funds received late in the day may not be posted into a customer's account until the following day, and certain commenters stated that international customers may be unable to wire funds by the close of the U.S. business day due to time zone differences.

There were two other major objections to the debit/deficit proposal. First, certain commenters stated that the proposal did not take into consideration an FCM's credit policies, *i.e.*, determinations made as to which customers will be allowed to go into a debit/deficit situation based on their financial standing and history of meeting margin calls and alleviating a debit/deficit condition. Second, certain commenters pointed out that current bankruptcy laws dissuade customers from keeping excess margin at their FCM, thus increasing the likelihood of accounts falling into a debit/deficit situation.

Other commenters suggested alternatives with respect to debit/deficit accounts. Ten commenters suggested that the rules should continue to allow the one-day grace period unless the account in question had been undermargined on the day prior to its reaching debit/deficit status, and two commenters would allow the one-day grace period unless the account in question had been in debit/deficit status the previous day. The Commission had indicated in its December 5, 1985 comment period extension notice that the former alternative may have merit. 50 FR 49859, 49860.

III. The Amended Rule

The Commission has determined to adopt the latter, less stringent alternative referred to in the prior paragraph, which would preserve the one-day grace period for a debit/deficit account unless the account had been in debit/deficit status on the previous business day and the debit/deficit status had not been redressed but is augmented the following business day. Therefore, if an account is in deficit by $10,000 at the close of Business Day 1 and there are further adverse market movements amounting to another $10,000 on Business Day 2, the one-day grace period would still apply with respect to the additional $10,000 loss suffered on Business Day 2 so long as at least $10,000 had been received by the FCM from the customer on Business Day 2 to satisfy the deficit which occurred at the close of Business Day 1. If the *total* deficit of Business Day 1 were not satisfied through the deposit of new funds on Business Day 2, however, because less than $10,000 was deposited with the FCM by the customer, the account would have to be excluded by the FCM from its current assets in computing its adjusted net capital. The Commission recognizes that current methods of account clearing and the limits of the Federal Reserve's wire transfer system present substantial operational problems to its August 5, 1985 proposal in this area. The Commission believes that the amendment to Rule 1.17(c)(2)(i) which it has adopted will sharpen to a certain extent the difference in treatment between debit/deficit accounts and undermargined accounts and that this is appropriate due to the substantially greater risk to an FCM from the former and the fact that a debit/deficit account frequently will have been undermargined for some time. The Commission further believes that the amendment accommodates the operational concerns raised by commenters as well as the objections to the proposal regarding an FCM's credit policies. The Commission wishes to reiterate, however, that the exclusion from current assets of debit/deficit accounts is not intended as a substitute for firms attempting to collect the proper margin for all accounts. The Commission also notes that no grace period is allowed where the FCM knows or should know that the debit or deficit is uncollectible, since Rule 1.17(c)(2)(vi) (17 CFR 1.17(c)(2)(vi) (1987)) requires an FCM to exclude from current assets any asset doubtful of collection or realization less any reserves established therefor. The Commission further reminds FCMs that the amendment does not alter the requirement that FCMs cover debit/deficit amounts from their own funds in order to maintain sufficient funds in segregation to cover those customer accounts which would liquidate to a positive equity. *See* Commission Rules 1.22 and 1.23 (17 CFR 1.22 and 1.23 (1987)).

IV. Other Matters

A. Regulatory Flexibility Act

When the Commission proposed to amend the debit/deficit account rule and to make other financial rule changes on August 5, 1985, the Chairman certified, on behalf of the Commission, that the proposed new rules and rule amendments would not, if adopted, have a significant economic impact on a substantial number of small entities. 50 FR 31619–20. Since the amendment which has been adopted to the debit/deficit account rule is less stringent than the proposal, the amendment is in compliance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* (1982)) based on the Chairman's prior certification.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (Act), 44 U.S.C. 3501 *et. seq.* (1982), imposes certain requirements on federal agencies (including the Commission) in conjunction with their conducting or sponsoring any collection of information as defined by the Act. In compliance with the Act, the Commission submitted this rule in proposed form to the Office of Management and Budget as a portion of the package of financial rule amendments which were proposed following the collapse of Volume Investors Corporation. 50 FR 31612 (August 5, 1985). This final rule will not affect the reporting and recordkeeping burden on FCMs and IBs. Copies of the OMB approved information collection

package (3038–0024) which contains this rule may be obtained from Bob Neal, Office of Management and Budget, Room 3220, NEOB, Washington, D.C. 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 1

Futures commission merchants, Minimum financial requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 4f, 4g, and 8a thereof, 7 U.S.C. 6c, 6f, 6g, and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: Sections 2(a)(1), 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 5, 5a, 6(a), 6(b), 6b, 6c, 8, 8a, 8c, 12, 15, 17 and 20 of the Commodity Exchange Act, 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, and 24.

2. Section 1.17 is amended by revising paragraph (c)(2)(i) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

* * * * *

(c) * * *

(2) * * *

(i) Exclude any unsecured commodity futures or option account containing a ledger balance and open trades, the combination of which liquidates to a deficit or containing a debit ledger balance only: *Provided, however,* Deficits or debit ledger balances in unsecured customers', non-customers', and proprietary accounts, which are the subject of calls for margin or other required deposits may be included in current assets until the close of business on the business day following the date on which such deficit or debit ledger balance originated providing that the account had timely satisfied, through the deposit of new funds, the previous day's debit or deficits, if any, in its entirety.

* * * * *

Issued in Washington, DC July 23, 1987 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–17129 Filed 7–28–87; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N–87–1698; FRL–2352]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by (1) revising the limits for Cumberland County, Maine, and New London County, Connecticut and (2) adding the mortgage limits for York County, Maine. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: July 29, 1987.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270, telephone (202) 755–6720.

For manufactured homes: Christopher Peterson, Director, Office of Manufactured Housing and Regulatory Functions, Room 9158, telephone (202) 755–5210. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) 12 U.S.C. (1710–1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured home lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features (see 49 FR 21520). First, there was no separate listing for condominum units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alasks, Guam and Hawaii. Third, it made changes to the list based on a new definition of "metropolitan area".

On October 1, 1986 (51 FR 34961), the Department published its annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act and the applicable limits for each area.

This Document

Today's document (1) revises the high-cost mortgage amounts for Cumberland County, Maine, and New London County, Connecticut, and (2) adds high cost mortgage limits for York County, Maine.

These amendments to the high-cost areas listing appear in two parts. Part I explains high-cost limits for loans insured under Title I of the National Housing Act. Part II lists changes for single family residences insured under sections 203(b) or 234(c) of the National Housing Act.

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, New London County, Connecticut has a one-family limit of $90,000. The combination home and lot loan limit for New London is $90,000 × .80 or $72,000.

B. *Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a lot loan, multipy the dollar amount in the "one-family" column of Part II of this list by .20. For example, New London County, Connecticut has a one-family

limit of $90,000. The lot-only limit for New London County is $90,000 × .20 or $18,000.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700. ($40,500 × 140%).

2. For combination manufactured homes and lots: $75,600. ($54,000 × 140%).

3. For lots only: $18,900 × ($13,500 140%).

II. Title II: Updating of FHA Sections 203(b), 234(c) and 214 Area Wide Mortgage Limits

REGION I.—HUD FIELD OFFICE—HARTFORD, CT

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
New London County	$90,000	$101,300	$122,650	$142,650

REGION I.—HUD FIELD OFFICE—BANGOR, ME

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
York County, ME	$81,600	$91,900	$111,650	$128,850
Cumberland County, ME	$80,750	$90,950	$110,500	$127,500

Date: May 18, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-17256 Filed 7-28-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-87-18]

Special Local Regulations: 1987 Spirit of America Offshore Grand Prix, Lake Michigan

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Third Annual Spirit of America Offshore Grand Prix which is to be conducted on Lake Michigan off of Grand Haven, MI, on the 15th of August, 1987. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective and terminate on 15 August, 1987.

FOR FURTHER INFORMATION CONTACT: CWO Gerald M. Trackim, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until 24 June, 1987, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

This has been an annual event for the past two years and no negative comments concerning it have been received.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because of the short duration of these regulations, their economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of this regulation are CWO Gerald M. Trackim, project officer, Officer of Search and Rescue and LCDR C. V. Mosebach, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Spirit of America Offshore Grand Prix will be conducted on Lake Michigan off of Grand Haven, MI, on 15 August, 1987. It is sponsored by the Grand Isle Marina and is well known to boaters and residents of this area. This event will have an estimated 50 plus power boats with an expected 7,000 spectator craft which could pose hazards to navigation in the area. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement prior to and during this event within this section of Lake Michigan. Coast Guard patrol vessels will be located at strategic locations around the regulated area to stop vessel traffic.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35-0918 to read as follows:

§ 100.35-0918 Spirit of America Offshore Grand Prix, Lake Michigan

The following area will be closed to vessel navigation or anchorage, except for spectator areas to be designated by the Coast Guard Patrol Commander (U.S. Coast Guard Group Muskegon, Muskegon, Michigan), from 10:00 A.M. (local time) until 3:00 P.M. (local time) on 15 August, 1987.

(a) *Regulated Area.* That portion of Lake Michigan enclosed by the following coordinates: 43 degrees 13 minutes 00.0 seconds North, 86 degrees 23 minutes 12.0 seconds West to the Muskegon Breakwater Light (LL 17915); then south along the shoreline to Port Sheldon Breakwater Light (LL 18320) to 42 degrees 53 minutes 42.0 seconds North, 86 degrees 14 minutes 48.0 seconds West to origin.

(b) *Special Local Regulations.* (1) Vessels desiring to transit the restricted area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. The Patrol Commander may be contacted on

channel 16(156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels will be operated at a no wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) This section is effective from 10:00 AM (EDT) until 3:00 PM (EDT) on August 15, 1987.

Dated: July 21, 1987.

A.M. Danielsen,

Radm., U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 87-17199 Filed 7-28-87; 8:45 am]

BILLING CODE 491-014-M

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33 CFR Part 165

[COTP Galveston, TX Regulation 87-02]

Security Zone Regulations; Galveston Channel, Galveston, TX

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in the slip between Galveston Wharves Piers 36 and 37. The zone is needed to safeguard the vessel moored in the slip against destruction or loss from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, Galveston, TX.

EFFECTIVE DATES: This regulation becomes effective on 20 August 1987 at approximately 12:01 A.M. CDT. It terminates 21 August 1987 when the vessel departs Galveston unless sooner terminated by the Captain of the Port Galveston, TX.

FOR FURTHER INFORMATION CONTACT: LCDR Robert H. Warman, Coast Guard Marine Safety Office Galveston, TX, 409-766-3639.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction or loss to the ship moored in the slip between Galveston Wharves Piers 36 and 37. In addition, the Security Zone involves a military affairs function and is exempt from the requirements of 5 U.S.C. 553.

Drafting Information

The drafters of this regulation are LCDR R.H. Warman, project officer for the Captain of the Port, and LCDR J.J. Vallone, project attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur between 20 and 21 August 1987 while a vessel is moored in the slip between Galveston Wharves Piers 36 and 37 during a joint field service exercise. The Security Zone is in the national interest and is justified to help protect military resources and aid in military readiness. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T830 is added to read as follows:

§ 165.T830 Security Zone: Galveston, TX.

(a) *Location.* The following area is a security zone: A Security Zone is established 20 August 1987 in the slip between Galveston Wharves Piers 36 and 37.

(b) *Effective Date.* This regulation becomes effective when the vessel moors in the slip between Galveston Wharves Piers 36 and 37. It terminates 22 August 1987 when the vessel departs Galveston unless sooner terminated by the Captain of the Port Galveston, TX.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Galveston, TX. Section 165.33 also contains other general requirements.

Dated: July 9, 1987.

R.W. Mason,

Captain, U.S. Coast Guard, Captain of the Port Galveston, TX.

[FR Doc. 87-17200 Filed 7-28-87; 8:45 am]

BILLING CODE 4910-4-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 87-3]

Compulsory License for Cable Systems

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: The Copyright Office of the Library of Congress is issuing a final regulation to update its regulations concerning the cable compulsory license. By this "housekeeping" action the Office will delete 37 CFR 201.11 and amend 37 CFR 201.17, so that the Copyright Office's regulations conform with recently passed legislation and rate adjustments issued by the Copyright Royalty Tribunal. The amendments are not substantive, and merely clarify and update information given in the regulations so that such information is accurate.

EFFECTIVE DATE: July 29, 1987.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, Telephone (202) 287-8380.

SUPPLEMENTARY INFORMATION: On August 22, 1986, Congress amended the Copyright Act of 1976 to eliminate the requirement in 17 U.S.C. 111(d)(1) that cable systems file notices of identity and signal carriage complement. *See* Pub. L. No. 99-397 (1986). By this action, the Copyright Office deletes the portion of its regulations at 37 CFR 201.11 that concerns the filing of such notices. Because § 201.11(a)(3), which defines a

"cable system," and § 201.11(a)(4), which defines when an FM radio signal is "generally receivable," have continued relevance in the context of the Office's cable compulsory license regulations as a whole, those regulations are being transferred, unchanged, to § 201.17, that concerns the operation of the cable compulsory license.

This action also updates § 201.17 to conform with technical changes in the statement of account forms issued by the Copyright Office and gives current rates and gross receipts ceilings, so that the information reflects the 1985 inflationary rate adjustment made by the Copyright Royalty Tribunal. (50 FR 18480) (May 1, 1985).

The amendments are purely of a "housekeeping" nature, are are not substantive, and do not change the Copyright Office's interpretation of section 111 of the Copyright Act.

List of Subjects in 37 CFR Part 201

Cable television, Cable compulsory license, Copyright Office.

Final Regulations

In consideration of the foregoing, Part 201 of CFR 37, Chapter II is amended in the manner set forth below.

PART 201—[AMENDED]

A. The authority citation for Part 201 continues to read in part as follows:

Authority: Sec. 702, 90 Stat. 2541; 17 U.S.C. 702.

* * * * *

§ 201.11 [Amended]

B. Section 201.11 is amended as follows:

1. Paragraphs (a)(1), (a)(2), and (a)(5) of § 201.11 are removed in their entirety.

2. Paragraph (a)(3) of § 201.11 is transferred to § 201.17 and is redesignated as 201.17(b)(2), as further described in amendment C.1. below.

3. Paragraph (a)(4) of § 201.11 is transferred to § 201.17 and is redesignated as 201.17(b)(4), as further described in amendment C.2. below.

4. Paragraphs (b), (c), (d), (e), and (f) of § 201.11 are removed in their entirety.

5. The heading for § 201.11 is removed and the section number is reserved.

§ 201.17 [Amended]

C. Section 201.17 is amended as follows:

1. Paragraph (b)(2) of § 201.17 is amended by adding the definition transferred from former § 201.11(a)(3), and reads as did former § 201.11(a)(3).

* * * * *

2. Paragraph (b)(4) of § 201.17 is amended by adding the definition transferred from former § 201.11(a)(4), and reads as did former § 201.11(a)(4).

* * * * *

3. Paragraph (b)(7) of § 201.17 is amended by removing the phrase "and § 201.11 of these regulations."

* * * * *

4. Paragraph (d)(2) (i) and (ii) of § 201.17 is revised to read as follows:

* * * * *

(d) * * *

(2) * * *

(i) Form SA1–2—"Short Form" for use by cable systems whose semiannual gross receipts for secondary transmission total less than $292,000; and

(ii) Form SA3—"Long Form" for use by cable systems whose semiannual gross receipts for secondary transmission total $292,000 or more.

* * * * *

5. Paragraph (e)(2) of § 201.17 is amended by removing the reference to footnote 8, and removing footnote 8 in its entirety.

* * * * *

6. Paragraph (e)(9) of § 201.17(vii) is amended by removing the phrase "Form CS/SA–1 or Form CS/SA–2" and inserting in lieu thereof the phrase "Form SA1–2".

* * * * *

7. Paragraph (e)(12) of § 201.17 is amended by removing the phrase "$41,500 or less" and inserting in lieu thereof the phrase "$75,800 or less".

* * * * *

8. Paragraph (e)(14)(iii)(E) of § 201.17 is revised to read as follows:

* * * * *

(e) * * *

(14) * * *

(iii) * * *

(E) A declaration of the veracity of the statements of fact contained in the Statement of Account and the good faith of the person signing in making such statement of fact.

* * * * *

9. Paragraph (g) of § 201.17 is amended in its last sentence by removing the phrase "or (ii) 0.799 of 1 percent" and inserting in lieu thereof "or (ii) 0.893 of 1 percent.

* * * * *

10. The introductory text of paragraph (h)(2) of § 201.17 is revised to read as follows:

* * * * *

(h) * * *

(2) A cable system filing Form SA3 shall compute its royalty fee in the following manner:

* * * * *

11. The introductory text of paragraph (h)(3) of § 201.17 is revised to read as follows:

* * * * *

(h) * * *

(3) A cable system whose semiannual gross receipts for secondary transmissions totalled $214,000 or more during the period January 1, 1983, through June 30, 1983, shall compute its royalty fee for carriage during that period in the following manner:

* * * * *

12. Paragraph (h)(4)(iv) is removed in its entirety.

* * * * *

13. Paragraph (j)(5) is removed in its entirety.

* * * * *

Dated: July 9, 1987.

Ralph Oman,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87–17121 Filed 7–28–87; 8:45 am]

BILLING CODE 1410–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–4–FRL–3238–1; AL–018]

Approval and Promulgation of Implementation Plans; Alabama Stack Height Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA is approving revisions to the Alabama state implementation plan (SIP) submitted to EPA on September 26, 1986. Alabama has revised its SIP to include regulations for good engineering practice stack height. These regulations are equivalent to EPA requirements promulgated at Part 51 of Chapter I, Title 40 of the Code of Federal Regulations.

DATES: This action will be effective on September 28, 1987, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Alabama Department of Environmental Management, 1751 Federal Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, EPA Region IV, Air Programs Branch at above listed address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 8, 1985 (50 FR 27892), EPA published final regulations to implement section 123 of the Clean Air Act (CAA), which regulates the manner in which dispersion of pollutants from a source may be considered in setting emission limitations. Pursuant to these regulations and the Clean Air Act Amendments of 1977, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations, and (2) review all existing emission limitations to determine whether these limitations have been affected by stack height credits above GEP or any other dispersion techniques. For any limitations so affected, states were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within nine months of promulgation.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, states were to prepare inventories of stacks greater than 65 meters in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* GEP stack height and the *de minimis* SO_2 emission exemption from prohibited dispersion techniques. These sources were then to be subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory.

On September 26, 1986, the Alabama Department of Environmental Management submitted SIP revisions for good engineering practice stack height. Since the State formally revised its SIP, a public hearing on the stack height regulations and new source review was held on July 31, 1986.

Alabama's regulations (16.3.3) limit the amount of stack height or dispersion credit (dispersion techniques) a source can claim in the process of establishing its emission limitation. Dispersion techniques include the use of stack heights greater than 65 meters and use of other techniques to increase the dispersion of emissions rather than continuously reducing emissions from a source. These regulations do not limit the physical stack height of any source, or the actual use of dispersion techniques at a source, nor do they require any specific stack height for any source. Instead, they set limits on the maximum credit for stack height and other dispersion techniques to be used in ambient air modeling for the purpose of setting an emission limitation and calculating the air quality impact of a source. Sources are modeled at their actual physical stack height unless that height exceeds their GEP stack height. The regulations apply to all stacks not in existence on December 31, 1970, and all dispersion techniques implemented since December 31, 1970. The regulation applies to both new and existing sources, thereby satisfying requirements for state new source review regulations at 40 CFR 51.164 (old 51.18(1)).

Alabama has adopted definitions corresponding to EPA's GEP regulations. The State's regulations define a number of specific terms, including "excessive concentration," "dispersion techniques" and "nearby." Alabama's revisions bring their existing regulations into conformance with the federal stack height rule.

Final Action

EPA has reviewed the submittal and found it to be in conformance with EPA's stack height requirements. Therefore, EPA is today approving Alabama's regulations on stack height.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial issue and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective September 28, 1987.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 28, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. § 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Incorporation by reference.

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

Dated: July 21, 1987.

Lee M. Thomas,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Subpart B—Alabama

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.50 is amended by adding paragraph (c)(46) as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(46) Stack height regulations were submitted to EPA on September 26, 1986, by the Alabama Department of Environmental Management.

(i) Incorporation by reference.

(A) Letter of September 26, 1986, from the Alabama Department of Environmental Management, transmitting stack height regulations.

(B) Section 16.3.3, Stack Heights, of the Alabama air pollution control rules and regulations, which was adopted on September 18, 1986, by the Alabama Environmental Management Commission.

(ii) Other material—none.

[FR Doc. 87–16950 Filed 7–28–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A-10-FRL-3238-8]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a revision to the Oregon State Implementation Plan which allows regional air pollution authorities to adopt a fee schedule that is different than that set by the Oregon Department of Environmental Quality (ODEQ). This involves a revision to the Oregon Administrative Rules Chapter 340, Division 20, Section 165.

DATES: This action will be effective on September 28, 1987, unless notice is received before August 28, 1987, that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30 comment period on this action.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Air Programs Branch (10A-87-3), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

Department of Environmental Quality, Yeon Building, 811 SW., 6th Street, Portland, OR 97204.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, AT-092, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, AT-092, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-4253, FTS: 399-4253.

SUPPLEMENTARY INFORMATION:

I. Background

The Oregon Revised Statutes (ORS) 468.535 establish the general functions of regional air authorities and explain their powers and limitations. Included in the general functions are the responsibility of issuing permits, as well as the contents, fees and uses of such permits. ORS 468.555 allows the Oregon Environmental Quality Commission (EQC) to authorize, by rule, the issuance of permits by regional authorities.

Oregon Administrative Rules (OAR) 340-20-185 authorizes local permit programs, pursuant to ORS 468.555. However, current regulations do not allow the regional air authorities to establish their own fee schedule. Before a regional authority could be allowed to amend the permit fee schedule for its own jurisdiction, specific authorization from the EQC needed to be provided by rule. After a public hearing within the Lane County Air Pollution Authority's jurisdiction, the proposed rule change was adopted by EOC on March 14, 1986, and was then submitted to the EPA for approval on May 23, 1986.

II. EPA Action

Today EPA approves the revision to the OAR Chapter 340, Division 20, Section 165, allowing the regional air quality authorities to establish permit fees different from those of the Oregon Department of Environmental Quality.

III. Administrative Review

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on these revisions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on those revisions and another will begin a new rulemaking by announcing a proposal of the action on these revisions and establish a comment period.

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

Under 5 U.S.C. 605(b), I certify that this revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 28, 1987. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference.

Dated: July 21, 1987.

Lee M. Thomas,

Administrator.

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

Title 40, Part 52, Subpart MM, of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart MM—Oregon

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

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

2. Section 52.1970 is amended by adding paragraph (c)(80) to read as follows:

§ 52.1970 Identification of Plan.

* * * * *

(c) * * *

(80) On May 23, 1986, the State of Oregon Department of Environmental Quality submitted a new paragraph (12), of OAR 340-20-165 "Fees", as a revision to the State Implementation Plan. This paragraph allows regional air pollution authorities to set a permit fee schedule for sources within their jurisdiction.

(i) Incorporation By Reference.

(A) Letter dated May 23, 1986, from the State of Oregon Department of Environmental Quality to EPA Region 10. Oregon Administrative Rule, Chapter 340, Division 20, Section 340-20-165 "Fees", paragraph (12), adopted by the Environmental Quality Commission on March 14, 1986.

[FR Doc. 87-16953 Filed 7-28-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-4-FRL-3239-7]

National Emission Standards for Hazardous Air Pollutants; Mississippi: Delegation of Authority; Tennessee; Delegation of Authority to Nashville/Davidson County; Partial Revocation of Delegation of Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: On July 30, 1986, the State of Mississippi requested delegation of authority for the implementation and enforcement of certain standards in 40 CFR Part 60 (Standards of Performance

for New Stationary Sources) and 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants) that had been promulgated and revised as of June 25, 1986. On September 22, 1986, the NSPS and NESHAP standards that had been promulgated since June 25, 1986, were delegated to Mississippi. The NSPS and NESHAP standards which were revised as of June 25, 1986, were delegated on December 19, 1986 (listed in the "Supplementary Information").

On December 17, 1986, the Metropolitan Health Department of Nashville/Davidson County requested delegation of one NSPS category. This was delegated to them on January 28, 1987.

EPA delegated to the State of Tennessee the authority to administer the NSPS category Subpart VV, Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry on August 14, 1985. EPA has since revoked the delegation of Subpart VV to Tennessee.

DATE: The effective dates of the delegations are: Nashville/Davidson County, Tennessee, January 28, 1987; Mississippi, December 19, 1986. The date of the delegation revocation for Tennessee is June 1, 1987.

ADDRESSES: Copies of the requests for delegation of authority and EPA's letters of delegation of authority and revocation of delegation of authority may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV—Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Metropolitan Health Department, Air Pollution Control Division, 311—23rd Avenue, North, Nashville, Tennessee 37203

Bureau of Pollution Control, Mississippi Department of Natural Resources, Post Office Box 10385, Jackson, Mississippi 39209

Division of Air Pollution Control, Tennessee Department of Public Control, 4th Floor, Customs House, 701 Broadway, Nashville, Tennessee 372190

FOR FURTHER INFORMATION CONTACT: Rosalyn D. Hughes of the EPA Region IV Air Programs Branch, at the above address and telephone number (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: Sections 101, 111(c)(1) and 112(d)(1) of the Clean Air Act authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS) and 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP).

On July 30, 1986, the State of Mississippi requested redelegation of authority of NSPS for Subpart I (*Hot Mix Asphalt Facilities*), Subpart N (*Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973)*, Subpart BB (*Kraft Pulp Mills*), Subpart MM (*Automobile and Light-Duty Truck Surface Coating*), Subpart TT (*Metal Coil Surface Coating*), Subpart VV (*Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry*), Subpart JJJ (*Petroleum Dry Cleaners*), and Subpart KKK (*Equipment Leaks of VOC from Onshore Natural Gas Processing Plants*), and NESHAP Subpart V (*Equipment Leaks (Fugitive Emission Sources)*).

After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for these source categories with all the conditions set forth in the delegation letter of November 20, 1981, and we delegated them to Mississippi on December 19, 1986.

The Metropolitan Health Department of Nashville/Davidson County requested delegation of authority of NSPS Subpart Db (Industrial-Commercial-Institutional Steam Generating Units) on December 17, 1986. After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for this source category with all the conditions set forth in the delegation letters dated May 25, 1977, and February 20, 1986. Sources in Nashville/Davidson County subject to the requirements of Subpart Dd of 40 CFR Part 60 as of January 28, 1987, will be under the jurisdiction of Metropolitan Health Department of Nashville/Davidson County.

On August 14, 1985, EPA delegated to the State of Tennessee the authority to administer NSPS Subpart VV (Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry). It has since come to EPA's attention that Tennessee's NSPS regulation is not yet State-effective. EPA was in error in delegating authority for Subpart VV to Tennessee. Therefore, as of June 1, 1987, EPA has revoked Tennessee's authority to administer Subpart VV of the NSPS.

I certify, pursuant to 5 U.S.C. 605(b), that these delegations will not have a significant impact on a substantial number of small entities.

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

Authority: Sections 111 and 112 of the Clean Air Act (42 U.S.C. 7411 and 7412).

Dated: July 15, 1987.

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 87–17183 Filed 7–23–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 7F3535/R904; FRL–3239–9]

Pesticide Tolerance for Daminozide

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: This document continues the tolerance of 20 parts per million (ppm) for residues of the plant growth regulator daminozide (butanedioic acid mono (2,2-dimethylhydrazide)) in or on the raw agricultural commodity apples through January 31, 1989. This regulation to continue the maximum permissible level for residues of daminozide in or on the commodity apples was requested by Uniroyal Chemical Company, Inc.

EFFECTIVE DATE: Effective on July 29, 1987.

ADDRESS: Written objections, identified by the document control number [PP 7F3535/R904] may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Room M–3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMTION CONTACT:

By mail, Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of June 17, 1987 (52 FR 23077), that announced that Uniroyal Chemical Company, Inc., 74 Amity Road, Bethany, CT 06525, had submitted pesticide petition 7F3535 proposing the extension of the tolerance for residues of the plant growth regulator daminozide in or on the raw agricultural commodity apples at 20 ppm. The petition was submitted under section 408(d)(1) and 408(m) of the Federal Food, Drug, and Cosmetic Act (FFDCA). The existing tolerance was established on January 16, 1987 (52 FR 1909), when EPA modified the tolerance in 40 CFR 180.246 for residues of

daminozide in or on the raw agricultural commodity apples by reducing the tolerance from 30 ppm to 20 ppm. The existing tolerance would expire on July 31, 1987, unless extended.

There were no comments received in response to the notice of filing.

Daminozide is a controversial chemical. Although it appears to have substantial benefits, its potential oncogenic risk is under ongoing investigation by the Agency. It is now the subject of litigation; in *Nader v. EPA*, No. 87–7103, the U.S. Court of Appeals for the Ninth Circuit has been asked to review EPA's denial of a petition to revoke all daminozide tolerances and to order EPA to revoke such tolerances.

As stated in the January 1987 final rule, the reported results of certain oncogenicity studies on daminozide, and on its impurity and hydrolysis product unsymmetrical dimethyl-hydrazine, or UDMH (also known as 1,1-dimethylhydrazine), indicate that these substances caused increased incidence of cancer in laboratory animals under the test conditions. However, audits and reviews of these studies have revealed that some of the studies yielded equivocal results and that the other studies have serious flaws or shortcomings in the test methodology and documentation. These facts have led EPA to conclude that the existing studies, singly or in combination, are inadequate to serve as the basis for regulatory action against daminozide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq.

The FIFRA Scientific Advisory Panel (SAP) reviewed the studies and held a public meeting on September 26, 1985, on daminozide. The SAP review was occasioned by EPA's referral to it of a draft Position Document 2/3/4 proposing, pursuant to section 6(b) of FIFRA, to issue a notice of intent to cancel the registrations of daminozide products for food uses. FIFRA requires that (except in circumstances not relevant here) EPA must refer a notice of intent to cancel to the SAP for review before publishing the notice. The SAP was established by Congress in 1975 under section 25 of FIFRA, 7 U.S.C. 136w, to provide for review by non-EPA scientists of proposed Agency actions as a result of Congressional "concern for adequate scientific data as a basis for decision making," H.R. Rep. No. 94–497, 94th Cong., 1st Sess., p. 29, Sept. 19, 1975.

At that SAP meeting, EPA and Uniroyal presented sharply divergent expert views about the validity of the oncogenicity studies. After its review of the studies and critiques, the SAP concluded that, while some of the studies (those performed by Toth et al.) "give rise to concern about the possible oncogenicity of daminozide," the data are inadequate to allow a qualitative risk assessment of the oncogenic potential of daminozide, i.e., an assessment of how likely it is that daminozide in fact increases the incidence of cancer. The SAP also found that the data are inadequate to allow a quantitative risk assessment.

With respect to UDMH, the SAP found that a recent inhalation study (conducted by Haun et al.) provides some evidence of potential oncogenicity, but that discrepancies in the study require further clarification. The SAP found use of these data to evaluate dietary risk to be questionable. (A subsequent EPA audit of the inhalation study concluded that it is unusable for regulatory purposes because the source and chemical composition of the test substance could not be determined from the underlying records of the study and because the boiling point of the chemical that was used as the test substance was reported to be some 40 degrees Centigrade higher than that of UDMH.)

The conclusions of the SAP were critical to EPA's decision to initiate a cancellation action on the basis of the existing oncogenicity data. Those conclusions showed that the acknowledged major defects in the key studies were viewed as much more significant by the SAP than they had been by EPA staff. This fact was of great practical importance to the Agency.

Under FIFRA section 6, upon publication of a notice of intent to cancel, the registrant has the right to demand a formal evidentiary hearing before an administrative law judge. In such a hearing, Congress has provided that the proponent of continued registration has the ultimate burden of persuading the deciding official that the benefits of use of the pesticide outweigh the risks of such use. But EPA has the initial burden of going forward with the evidence, i.e., the burden of presenting a prima facie case that the risks of use of a pesticide outweigh the benefits of such use.

It was clear to EPA that had it chosen to proceed with issuance of a notice of intent to cancel, a hearing would have been requested and cancellation would have been vigorously contested. At such a hearing it would have been the Agency's duty to come forward with sufficient creditable evidence to constitute a prima facie case for cancellation. If the data on oncogencity were not viewed as creditable, it would be difficult for EPA to meet its threshhold burden of establishing a prima facie case. Even if this initial burden were met, serious questions about the significance of the oncogenicity data would make it much easier for the proponents of continued registration to sustain their ultimate burden of persuading the decisionmaker that the benefits of daminozide use outweigh the risks.

In deciding whether to issue a notice of intent to cancel, the Agency must consider the benefits as well as the risks of the pesticide, and must consider other risk-reduction actions as alternatives to cancellation. FIFRA section 6(b). It is also proper for the Agency to consider matters such as allocation of scarce resources and likelihood that use of those resources in a particular proceeding will result in success.

In view of the flaws in the oncogenicity studies, the extreme degree of disagreement among qualified experts on their meaning and reliability, the SAP's conclusions that the various oncogenicity studies were unusable for regulatory purposes and should be repeated, the information before the Agency on the benefits of daminozide use in apple production (see, e.g., pages III–7 through III–16 of the Draft PD 2/3/4), and the resultant substantial possibility that an attempt to cancel the registrations of daminozide products might not succeed, the Agency in January 1986 exercised its discretion not to proceed with issuance of a notice of intent to cancel at that time. Instead, the Agency deferred its decision on the cancellation issue until the registrant, Uniroyal, had submitted new, well-conducted studies to assess the toxicity of, and amount of human exposure to, daminozide and UDMH. Uniroyal by then had under way an oncogenicity study on daminozide, and the Agency ordered it to conduct similar studies on UDMH pursuant to FIFRA section 3(c)(2)(B), to submit progress reports, and to submit the final results when the studies are completed.

It is EPA's policy to coordinate its actions regarding the revocation of tolerances for pesticide chemicals under the FFDCA with its actions regarding the cancellation of corresponding registrations of pesticides under FIFRA. In 1982, EPA published a Statement of Policy on this subject (47 FR 42956; Sept. 29, 1982) which, among other things, reflects the joint understanding of the Food and Drug Administration, the Department of Agriculture, and EPA that EPA ordinarily will not revoke a tolerance until the corresponding registration(s) have been cancelled, nor until the end of any period provided by the final cancellation order for use of

existing stocks of the pesticide (47 FR 42958; Sept. 29, 1982). That document also states that EPA will issue a notice of proposed rulemaking to revoke a tolerance at the time EPA issues a notice of intent to cancel a corresponding registration, so that a final rule revoking a tolerance, if appropriate, can be issued at the time the associated registrations are cancelled (or shortly thereafter).

The underlying basis of the 1982 policy statement is that a food producer ordinarily should be able to assume correctly that using a pesticide on a crop in accordance with an EPA-approved FIFRA registration will not result in the seizure of the crop as failing to conform with a tolerance regulation issued by EPA under FFDCA. EPA continues to believe that this policy is correct, and it has not been challenged.

The 1982 policy statement did not discuss what EPA's policy would be with respect to tolerances for a pesticide chemical in the event that the associated FIFRA registrations were suspended under FIFRA section 6(c) pending the outcome of a cancellation hearing. However, EPA's policy is that it will modify or revoke a tolerance for such a pesticide chemical if, and to the extent that, it appears to the Agency that such action is appropriate in view of the findings that led to the suspension action and the criteria in the FFDCA.

As discussed in the January 1987 rule, the Agency imposed extensive data requirements including four oncogenicity studies, mutagenicity studies, metabolism studies, and extensive residue monitoring studies, on the registrant of daminozide products, Uniroyal Chemical Co. Until such time as the Agency has considered data from these studies and determined what, if any, action is appropriate to take against daminozide registrations under FIFRA section 6, the 1982 policy statement and the logic underlying it provide a strong argument that the tolerance for daminozide residues should not be revoked at this time.

However, in the meantime, the Agency has taken other regulatory measures to reduce exposure to daminozide pending receipt of the additional data. In particular, the Agency approved a label amendment which reduced the application rate for daminozide on apples, and the registrant committed to including a use advisory in every bag of the end-use product, Alar, recommending that daminozide-treated apples not be sold for processing into sauce. Based on available residue data and the reduced application rates, the Agency also reduced the tolerance on apples from 30 ppm to 20 ppm, with an expiration date of July 31, 1987. The Agency proposed to reassess the 20 ppm tolerance for apples, based on new residue data due in May 1987.

The registrant has not submitted the required field trials and a petition proposing continuance of the tolerance at 20 ppm. Based on review of the submitted data and other relevant material, the Agency does not expect residues of daminozide in or on apples, resulting from its registered uses, to exceed the current tolerance of 20 ppm.

Crop field trials were conducted in Washington, Pennsylvania, New York, Michigan, and North Carolina. A total of 35 samples of apples were collected. Apple varieties included Red Delicious, Golden Delicious, Jonathan, McIntosh, Early and Jersey Mac, Paula Red, Gravenstein, Viking and Stayman. Treatment rates were 2.55 lbs ai/A or 3.4 lbs ai/A (1X maximum rate). Apples were harvested 35, 48, 49, 50 and 60 days after treatment.

At the lower application rate, residues of daminozide in or on apples ranged from <1 ppm to 10 ppm. Preharvest intervals for these apples were 35 to 60 days. At the higher application rate, in apples harvested at 49 and 50 days after treatment, daminozide residues ranged from <1 to 5 ppm; there was one high value of 19 ppm in apples harvested at 60 days after treatment. The average for all samples was 4 ppm.

A Food and Drug Administration (FDA) Fiscal Year 1986 monitoring study reported that apples contained up to 0.6 ppm daminozide. Recent Uniroyal market basket survey results showed levels of daminozide in or on apples ranging from <0.01 ppm to 12 ppm, with average residues of 1 ppm.

Residues of UDMH in or on apples in the submitted field trials ranged from <1 parts per billion (ppb) to 27 ppb, with an average of 7 ppb. The FDA monitoring data showed UDMH residues in or on apples at <5 ppb; the Uniroyal market basket survey results showed UDMH residues in or on apples ranged from <1 ppb to 23 ppb with average residues of 3 ppb. Maximum residues of UDMH in apple juice and apple sauce found in the market basket survey were 112 ppb and 228 ppb, respectively, with average residues of 33 ppb in apple juice and 44 ppb in apple sauce. These values, as expected, are significantly lower than a worst-case prediction of about 1 ppm (1,000 ppb) based on the assumption of tolerance level residues (20 ppm) in all apples used for processing, and the use of the highest factor for conversion of daminozide to UDMH of 6.2 percent found in a processing study.

An analytical method, spectrophotometry (Method I in Pesticide Analytical Manual, Volume II), is available for enforcement purposes.

The final report of a Uniroyal oncogenicity study on daminozide is scheduled to be submitted to EPA in August 1988; a recently submitted report stated that the interim sacrifice of animals from that test showed no increased incidence of tumors in dosed animals as compared to control animals. By the summer of 1988, the results of 12-month interim sacrifices from the UDMH oncogenicity studies will have been submitted. EPA expects to have completed its evaluation of these data by December 1988. By that time, EPA also will have received and reviewed a wide range of new data on dietary residues and metabolism. Accordingly, EPA deems it appropriate to provide that the tolerance established by this final rule shall expire on January 31, 1989, so that the tolerance may be modified as appropriate on the basis of the data then at hand.

Based on the information considered by the Agency, EPA has concluded that a tolerance level of 20 ppm for residues of daminozide in or on apples is the appropriate level to cover possible residues that may result from use of daminozide in accordance with label directions. Furthermore, EPA has concluded that a tolerance at that level during the period ending January 31, 1989, is adequate to protect the public health, taking into account information on the possible toxicity of daminozide and UDMH, the level and duration of exposure to the substances that may result from consuming apples and other foods and the importance of daminozide to the availability of apples, an important food commodity.

Any person adversely affected by this regulation extending the 20 ppm tolerance for residues of daminozide on apples may, within 30 days after publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above, and may as a part of such objections request a hearing on factual issues associated with such objections. Objections should specify the provisions of the regulation deemed objectionable and the ground for the objections. If a hearing is requested, the request must state the factual issues to be addressed in the hearing.

In the event that objections or requests for a hearing are filed, this tolerance rule will remain effective until issuance of any order resulting from such objections or requests. Section 408(d)(4), FFDCA.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a regulatory action is "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This rule has been reviewed by the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), and it has been determined that it will not have a significant impact on a substantial number of small businesses, small governments, or small organizations.

Measures to reduce dietary exposure to daminozide were put in place by the beginning of the 1986 growing season; as a result, residues of daminozide in legally treated applies are not expected to exceed the reduced tolerance level of 20 ppm.

Accordingly, it is certified that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

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

Dated: July 22, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.246 is amended in paragraph (b) by revising the entry for apples in the table therein, to read as follows:

§ 180.246 Daminozide; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million	Expiration date
Apples	20.0	Jan. 31, 1989.

[FR Doc. 87–17184 Filed 7–28–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6758]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet the statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster

Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

The authority citation for Part 64 continues to read as follows:

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

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date [1]
Region I				
Massachusetts: Wareham, town of, Plymouth County	255223	July 10, 1970, Emerg.; May 28, 1971, Reg.; Aug. 4, 1987, Susp	Aug. 4, 1987	Aug. 4, 1987.
Vermont: Grafton, town of, Windham County	500129	Oct. 25 1977, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region II				
New York: Watertown, city of, Jefferson County	360354	July 7, 1975, Emerg.; Oct. 15, 1985, Reg.; Aug. 4, 1987, Susp	do	Do.
Region III				
Virginia:				
Gloucester County, Unincorported areas	510071	Mar. 25, 1974, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Irvington, town of, Lancaster County	510221	Aug. 18, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Tappahannock, town of, Essex County	510049	June 3, 1974, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region IV				
South Carolina: Nichols, town of, Marion County	450144	July 21, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region V				
Illinois: Kirkland, village of, DeKalb County	170186	Feb. 14, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Michigan: Standish, town of, Arenac County	260017	May 25, 1973, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Ohio:				
Strasburg, village of, Tuscarawas County	390631	Nov. 8, 1974, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Sugarcreek, village of, Tuscarawas County	390546	Jan. 23, 1979, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region VI				
Arkansas:				
Piggott, city of, Clay County	050035	May 5, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Van Buren, city of, Crawford County	050053	Jan. 16, 1974, Emerg.; Nov. 16, 1977, Reg.; Aug. 4, 1987, Susp	do	Do.
Texas: Denton, city of, Denton County	480194	Feb. 18, 1972, Emerg.; Aug. 1, 1979, Reg.; Aug. 4, 1987, Susp	do	Do.
Region VII				
Iowa: Clear Lake, city of, Cerro Gordo County	190059	Aug. 7, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region IX				
California:				
Rio Vista, city of, Solano County	060371	June 13, 1975, Emerg.; May 19, 1981, Reg.; Aug. 4, 1987, Susp	do	Do.
Madera County, unincorporated areas	060170	Mar. 3, 1972, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region X				
Oregon: Lake Oswego, city of, Clackamas County	410018	Mar. 19, 1974, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region II—Minimal Conversions				
New York:				
Franklin, village of, Delaware County	360199	Aug. 8, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	Aug. 1, 1987	Aug. 1, 1987.
Schenevus, village of, Otsego County	361359	Oct. 20, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Schoharie, village of, Schoharie County	361061	Sept. 11, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Stamford, village of, Delaware County	360213	Aug. 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug 1, 1987, Susp	do	Do.
Region III				
Pennsylvania:				
Annin, township of, McKean County	421850	Aug. 7, 1974, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Cherry, township of, Sullivan County	422058	Jan. 26, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Forkston, township of, Wyoming County	422199	Oct. 15, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
North Branch, township of, Wyoming County	422203	Sept. 7, 1979, Emerg.; Aug. 1, 1987, Susp.; Aug. 1, 1987, Susp	do	Do.
Oswayo, township of, Potter County	421982	Apr. 29, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Pittsfield, township of, Warren County	422125	Feb. 18, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Roseville, borough of, Tioga County	420826	Feb. 17, 1981, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Shrewsbury, township of, Sullivan County	422066	Aug. 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
West Hemlock, township of, Montour County	421925	July 25, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
West Virginia:				
Albright, town of, Preston County	540161	June 23, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Bruceton Mills, town of, Preston County	540162	May 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Grafton, city of, Taylor County	540190	June 12, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Grant County, unincorporated areas	540038	Oct. 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug 1, 1987, Susp	do	Do.
Hampshire County, unincorporated areas	540226	Jan. 19, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Hendricks, town of, Tucker County	540193	Aug. 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Newburg, town of, Preston County	540268	June 9, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Reedsville, town of, Preston County	540269	Nov. 24, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Terra Alta, town of, Preston County	540257	Sept. 3, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Wardensville, town of, Hardy County	540245	Apr. 17, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Region IV				
Alabama:				
Castleberry, town of, Conecuh County	010050	June 7, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Washington County, unincorporated areas	010302	Jan. 12, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Kentucky: Bath County, unincorporated areas	210008	Aug. 23, 1985, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
North Carolina: Conway, town of, Northampton County.	370174	June, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date [1]
Region V				
Indiana: Petersburg, city of, Pike County	180199	Mar. 6, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Ohio:				
Hicksville, village of, Defiance County	390145	July 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Huron County, unincorporated areas	390770	Aug. 3, 1979, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Loudonville, village of, Ashland and Holmes Counties.	390009	July 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Monroeville, village of, Huron County	390283	Aug. 6, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Ottoville, village of, Putnam County	390473	June 2, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Perrysville, village of, Ashland County	390730	April 6, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Roswell, village of, Tuscarawas County	390813	July 28, 1977, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Smithville, village of, Wayne County	390629	July 16, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Stockport, village of, Morgan County	390423	May 30, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Region VI—Minimal Conversions				
Louisiana:				
Killian, village of, Livingston Parish	220355	Oct. 26, 1977, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Richland Parish, unincorporated areas	220154	May 14, 1973, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
New Mexico: Otero County, unincorporated areas	350044	Aug. 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Oklahoma:				
Fort Towson, town of, Choctaw County	400039	June 1, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Kinta, city of, Haskell County	400071	Oct. 4, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Marshall, town of, Logan County	400306	Aug. 13, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Okemah, city of, Okfuskee County	400429	Aug. 1, 1977, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Stonewall, town of, Pontotoc County	400177	Mar. 12, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Taft, town of, Muskogee County	400128	June 24, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Texas				
Anthony, town of, El Paso County	480804	Oct. 4, 1974, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Blum, city of, Hill County	480350	June 11, 1980, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Bosque County, unincorporated areas	480051	May 4, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Childress, city of, Childress County	480125	June 18, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Eastland, city of, Eastland County	480204	June 10, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Grandfalls, city of, Ward County	480643	July 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Le Flors, city of, Gray County	480256	July 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Meridian, city of, Bosque County	480053	June 4, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Roaring Springs, city of, Motley County	480496	Feb. 12, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Rotan, city of, Fisher County	480224	Aug. 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Seminole, city of, Gaines County	480240	Oct. 7, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Sterling, city of, Sterling County	480579	July 29, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Toyah, city of, Reeves County	480539	Sept. 2, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
New Mexico: Mora County, unincorporated areas	350043	Oct. 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Region VII				
Iowa:				
Ellsworth, city of, Hamilton County	190136	Dec. 29, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Inwood, city of, Lyon County	190598	Aug. 18, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
What Cheer, city of, Kedkuk County	190179	Jan. 28, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Kansas: Garnett, city of, Anderson County	200005	Aug. 15, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Missouri: Elvins, city of, St. Francois County	290322	July 11, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp	do	Do.
Region IV—Minimal Conversions				
North Carolina: Henderson, city of, Vance County	370367	Apr. 13, 1976, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	Aug. 4, 1987	Aug. 4, 1987.
Tennessee: Portland, city of, Sumner County	470187	Feb. 14, 1972, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region V				
Illinois: South Jacksonville, village of, Morgan County	170519	Sept. 6, 1978, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Michigan: Howell, city of, Livingston County	260441	Dec. 8, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Ohio: Russells Point, village of, Logan County	390342	June 25, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region VI				
Oklahoma: Stilwell, city of, Adair County	400001	Nov. 14, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Texas: Somervell County, unincorporated areas	481186	Sept. 11, 1979, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Region VII—Minimal Conversions				
Iowa:				
Adel, city of, Dallas County	190103	July 30, 1975, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Carlisle, city of, Warren and Polk Counties	190274	Dec. 17, 1974, Emerg.; Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Elgin, city of, Fayette County	190139	June 18, 1975, Emerg.;Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Fertile, city of, Worth County	190301	Mar. 19, 1976, Emerg.;Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Fort Atkinson, city of, Winneshiek County	190264	Aug. 21, 1975, Emerg.;Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.
Missouri: Warsaw, city of, Benton County	290030	Aug. 25, 1975, Emerg.;Aug. 4, 1987, Reg.; Aug. 4, 1987, Susp	do	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-17125 Filed 7-28-87; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6759]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSEE: Flood insurance policies for property located in the communities listed can be obtained from any licensed

property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the last column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

The authority citation for Part 64 continues to read as follows:

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

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Michigan: Hendricks, township of, Mackinac County	260806-New	June 5, 1987, Emerg	
New York: Montebello village of, Rockland County	361617-New	do	
Oklahoma: Cleveland County, unincorporated areas	400475	June 8, 1987, Emerg	
New York:			
Chazy, town of, Clinton County	361310	Apr. 14, 1978, Emerg; May 19, 1987, Reg.; May 19, 1987, Susp.; June 2, 1987, Rein	May 19, 1987.
Highlands, town of, Orange County	361251	June 9, 1975, Emerg.; May 19, 1987, Reg.; May 19, 1987 Susp.; June 2, 1987, Rein	Do.
Tennessee: Covington, city of, Tipton County	470189D	Jan. 15, 1975, Emerg.; Mar. 18, 1987, Reg.; Mar. 18, 1987, Susp.; June 8, 1987, Rein.	Mar. 1987.
Minnesota: Motley, city of, Morrison County	270300	June 12, 1987, Emerg	Sept. 18
Ohio: Roaming Shores, village of, Ashtabula County	390885	do	
Texas:			
Coolidge, city of, Limestone County	480911	do	June 11, 1976.
Trophy Club, [1] town of, Denton County	481606-New	June 12, 1987, Emerg.; June 12, 1987, Reg	
North Carolina: Swain County,[2] unincorporated areas	370227B	Feb. 3, 1980, Emerg.; July 17, 1986, Reg.; July 17, 1986, Susp.; June 12, 1987, Rein	July 17, 1986.
New York: Highland Falls, village of, Orange County	361453	July 2, 1974, Emerg.; May 19, 1987, Reg.; May 19, 1987, Susp.; June 12, 1987, Rein	May 19, 1987.
Texas:			
Palmer, city of, Ellis County	480209	June 15, 1987, Emerg	Aug. 13, 1976.
Petrolia, city of, Ellis County	480745	do	Nov. 5, 1976.
California: West Hollywood, city of, Los Angeles County	060720	do	
Tennessee: Ripley, town of, Lauderdale County	470100	Jan. 23, 1975, Emerg.; May 19, 1987, Reg.; May 19, 1987, Susp.; June 15, 1987, Rein.	May 19, 1987.
Missouri: Gasconade, city of, Gasconade County	290140B	June 27, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp.; June 22, 1987, Rein.	Dec. 18, 1984.
New York:			
Chesterfield, town of, Essex County	360264	May 9, 1977, Emerg.; May 4, 1987, Reg.; May 4, 1987, Susp.; June 23, 1987, Rein	May 4, 1987.
Otsego, town of, Otsego County	361276	Jan. 21, 1976, Emerg.; June 1, 1987, Reg.; June 1, 1987 Susp.; June 23, 1987, Rein	June 1, 1987.
Springfield, town of, Otsego County	361280	May 5, 1976, Emerg.; June 1, 1987, Reg.; June 1, 1987, Susp.; June 23, 1987, Rein	June 1, 1987.
North Carolina: Bridgeton,[3] town of, Craven County	370436	Oct. 19, 1973, Emerg.; May 4, 1987, Reg	May 4, 1987.
West Virginia: Petersburg, town of, Grant County	540039	Apr. 18, 1975, Emerg.; June 18, 1987, Reg.; June 18, 1987, Susp.; June 26, 1987, Rein.	June 18, 1987.
Pennsylvania: Harford,[3] township of, Susquehanna County	422081	Nov. 2, 1976, Emerg.; Sept. 1, 1986, Reg; Sept. 1, 1986, Susp.; June 30, 1987, Rein	Sept. 1, 1986.
Region I			
Connecticut:			
New Milford, town of, Litchfield County	090049	June 4, 1987, suspension withdrawn	June 4, 1987.
West Hartford, town of, Hartford County	095082	do	Do.
Maine: Gouldsboro, town of, Hancock County	230283	do	Do.
Massachusetts:			
Canton, town of, Norfolk County	250235	do	Do.
Dover, town of, Norfork County	250238	do	Do.
Randolph, town of, Norfork County	250251	do	Do.
New Hampshire:			
Warner, town of, Merrimack County	330123	do	Do.
Region II			
New York: Webster, town of, Monroe County	360436	do	Do.
Region IV			
Florida:			
Hamilton County, unincorporated areas	120101	do	Do.
Madison county, unincorporated areas	120149	do	Do.
Georgia: Jefferson, city of, Jackson County	130112	do	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region VIII			
Colorado:			
Basalt, town of Eagle and Pitkin Counties	080052	do	Do.
Pitkin County, unincorporated areas	080287	do	Do.
Snowmass Village, town of, Pitkin County	080312	do	Do.
North Dakota:			
Center, township of, Richland County	380648	do	Do.
Wahpeton, city of, Richland County	380100	do	Do.
Barnes County unincorporated areas	380339	do	Do.
Region IX			
California:			
Fontana, city of, San Bernardino County	060274	do	Do.
Madera, city of, Madera County	060172	do	Do.
Region I			
Connecticut: Sherman, town of, Fairfield County	090166	June 18, 1987, suspension withdrawn	June 18, 1987.
Massachusetts:			
Methuen, town of, Essex County	250093	do	Do.
Norton, town of, Bristol County	250060	do	Do.
Taunton, city of, Bristol County	250066	do	Do.
Region II			
New Jersey: Randolph, township of, Morris County	340358	do	Do.
New York:			
Carmel, town of, Putnam County	360669	do	Do.
Philipstown, town of, Putnam County	361026	do	Do.
Region III			
Maryland: Prince George's County, unincorporated areas	245208	do	Do.
Region V			
Indiana: Lagro, town of, Wabash County	180268	do	Do.
Region VI			
Texas: Montgomery County, unincorporated areas	480483	do	Do.
Region IX			
California:			
Lodi, city of, San Joaquin County	060300	do	Do.
Moreno Valley, city of, Riverside County	060711	do	Do.
Oceanside, city of, San Diego County	060294	do	Do.
Palmdale, city of, Los Angeles County	060144	do	Do.
Region X			
Washington: Rockford, town of, Spokane County	530181	do	Do.
Region III—Minimal Conversions			
Pennsylvania:			
Anthony, township of, Montour County	421232	June 1, 1987, suspension withdrawn	June 1, 1987.
Bingham, township of, Potter County	421973	do	Do.
Clara, township of, Potter County	421974	do	Do.
Genesee, township of, Potter County	421977	do	Do.
Menno, township of, Mifflin County	421881	do	Do.
Overfield, township of, Wyoming County	422568	do	Do.
Ulysses, township of, Potter County	421991	do	Do.
Union, township of, Mifflin County	421883	do	Do.
Region IV—Minimal Conversions			
North Carolina:			
Fair Bluff, town of, unincorporated areas	370067	do	Do.
McAdenville, town of, Gaston County	370101	do	Do.
Murfreesboro, town of, Hertford County	370419	do	Do.
Rutherford County, unincorporated areas	370217	do	Do.
Wilkesboro, town of, Wilkes County	370259	do	Do.
Region V			
Michigan: Worth, township of, Sanilac County	260296	do	Do.
Wisconsin:			
Hillsboro, city of, Vernon County	550455	do	Do.
Somerset, village of, St. Croix County	550386	do	Do.
Region V—Minimal Conversions			
Wisconsin: Taylor, village of, Jackson County	550190	do	Do.
Region VII			
Iowa: Union, city of, Hardin County	190142	do	Do.
Kansas: Tescott, village of, Ottowa County	200258	do	Do.
Region VIII			
Montana: Whitehall, town of, Jefferson County	300128	June 4, 1987, suspension withdrawn	June 4, 1987.
Region III—Minimal Conversions			
Pennsylvania: Dushore, borough of, Sullivan County	420810	June 18, 1987, suspension withdrawn	June 18, 1987.

[1] The Town of Trophy Club has adopted by reference Denton County's Flood Insurance Study and accompanying Flood Insurance Rate Maps and any revisions thereto for floodplain management purposes.
[2] Minimal Conversions.
[3] Formerly under Craven County's Application.
The city of West Hollywood, California was enrolled into the Emergency Program of the NFIP on *June 15, 1987*. The City's FIRM became effective on *June 18, 1987*. The city's conversion date to the Regular Program is also *June 18, 1987*. All records should be amended in order to reflect the conversion date.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87-17126 Filed 7-28-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 87-7]

Implementation of the Equal Access to Justice Act in Commission Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This rule implements the Equal Access to Justice Act, as revised, and provides for the award of attorney fees and other expenses to certain parties who prevail over the Federal Government in certain proceedings before the Commission.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: The Equal Access to Justice Act ("EAJA"), Pub. L. No. 96-481, 94 Stat. 2325, was reauthorized and amended by Pub. L. No. 99-80, 99 Stat. 183, on August 5, 1985. "Model Rules" implementing EAJA were promulgated on May 6, 1986 by the Administrative Conference of the United States ("ACUS"). 51 FR 16659 (May 6, 1986). The EAJA and the Model Rules provide for the award of attorney fees and other expenses to certain parties who prevail over the Federal Government in certain administrative proceedings.

On April 15, 1987, the Federal Maritime Commission ("Commission" or "FMC") published a proposed rule (52 FR 12208) to implement the EAJA and track the Model Rules.[1] Two comments on the proposed rules were received.

The Asia North America Eastbound Rate Agreement ("ANERA") suggests that the rule be clarified to take account of the unique nature of the parties regularly appearing before the Commission. Specifically, ANERA proposes that the rule include the term "conferences" as an eligible applicant referenced in § 502.501(d)(2)(v), which now reads:

> (v) Any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than $7 million and not more than 500 employees.

The Commission agrees with ANERA that "conferences" are "associations" within the meaning of § 502.501(d)(2)(v) and could be eligible for an award of attorney fees and other expenses under the EAJA and this rule, if other requirements are met. At the same time, however, the Commission believes that it is not necessary to add a specific provision in the final rule to so provide. *See* section 3(7) of the Shipping Act of 1984, 46 U.S.C. app. 1702(7). There are other unique entities which have been or could be parties to Commission proceedings and which could be eligible applicants under this rule, such as a "joint service," which might be an association, corporation or partnership. The Commission cannot here list every potential type of party to its proceedings but, when questions arise, will rely on the generic language of § 502.501(d)(2)(v).

ACUS noted that the FMC's proposed rule follows closely its Model Rules and that the departures from the Model Rules "appear to be sensible adaptations of the model to the specific requirements of Federal Maritime Commission practice." However, ACUS further comments:

> Both the summary and preamble of your document [proposed rules] appear to state that the rules apply to the award of attorney fees to parties who prevail over the government in court proceedings (although the rules themselves do not state this). Since, under 28 U.S.C. 2812(d)(3), the courts themselves are to make EAJA awards in cases before them, the only part of these rules that might apply to court proceedings would be the provision for payment of awards by the agency (section 502.503(j)). You may wish to note this in the document publishing your final rules, in order to avoid any confusion.

The Commission notes and adopts ACUS' suggested clarification, which does not go to the rule itself, but to language in the Summary and Supplementary Information which accompanied the rule. If there is any type of court proceeding, such as for enforcement of a subpoena under 46 U.S.C. app. 1713(c), which might be "in connection with" a Commission adjudication under 5 U.S.C. 504(a)(1), and, at the same time, may not be covered by 28 U.S.C. 2812(d)(3), the rule, at § 502.501(c)(2), provides a vehicle for addressing that situation on a case-by-case basis.

Accordingly, the Commission adopts the proposed rule as final, without change.

This rule is not a "major rule" for the purposes of Executive Order 12291 of February 27, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure.

Therefore, for the foregoing reasons, Part 502 of Title 46 of the Code of Federal Regulations is amended as follows:

PART 502—[AMENDED]

1. The Authority Citation for Part 502 is revised to read as follows:

> **Authority:** 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707-1711, 1713-1716; and E.O. 11222 of May 8, 1965 (30 FR 6469).

2. Paragraph (a) of § 502.74 is revised to read as follows:

§ 502.74 Replies to pleadings, motions, applications, etc.

(a)(1) Except as provided under Subpart V of this part, a reply to a reply is not permitted.

(2) Except as otherwise provided respecting answers (§ 502.64), shortened procedure (Subpart K of this part), briefs (§ 502.221), exceptions (§ 502.227), replies to petitions for attorney fees under the Equal Access to Justice Act (§ 502.503(b)(1)), and the documents specified in paragraph (b) of this section, any party may file and serve a reply to any written motion, pleading, petition, application, etc., permitted under this part within fifteen (15) days after the date of service thereof, unless a shorter period is fixed under § 502.103.

* * * * *

Subpart V—[Redesignated as Subpart W]

3. Subpart V, containing § 502.991, is redesignated as "Subpart W".

4. A new Subpart V is added to read as follows:

Subpart V—Implementation of the Equal Access to Justice Act in Commission Proceedings

Sec.

[1] The Commission recently published a final rule, effective on April 2, 1987, which governs the award of attorney fees in certain reparation proceedings under section 11 of the Shipping Act of 1984, 46 U.S.C. app. 1710. *See* Attorney's Fees in Reparation Proceedings, Docket No. 86-27, 52 FR 6330 (March 3, 1986).

Subpart V—Implementation of the Equal Access to Justice Act in Commission Proceedings

§ 502.501 General provisions.

(a) *Purpose.* The Equal Access to Justice Act, 5 U.S.C. 504 ("EAJA"), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before the Federal Maritime Commission ("the Commission"). An eligible party may receive an award when it prevails over an agency, unless the agency's position was substantially justified or special circumstances make an award unjust. The rules in this subpart describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Commission will use to make them.

(b) *When EAJA applies.* EAJA applies to any adversary adjudication:

(1) Pending or commenced before the Commission on or after August 5, 1985;

(2) Commenced on or after October 1, 1984, and finally disposed of before August 5, 1985, provided that an application for fees and expenses, as described in § 502.502 of this subpart, has been filed with the Commission within 30 days after August 5, 1985; or

(3) Pending on or commenced on or after October 1, 1981, in which an application for fees and other expenses was timely filed and was dismissed for lack of jurisdiction.

(c) *Proceedings covered.* (1)(i) EAJA applies to adversary adjudications conducted by the Commission under this part. These are adjudications under 5 U.S.C. 554 in which the position of this or any other agency of the United States, or any component of any agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding.

(ii) Any proceeding in which the Commission may prescribe a lawful present or future rate is not covered by the Act.

(iii) Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise "adversary adjudications."

(2) The Commission's failure to identify a type of proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the EAJA; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(3) If a proceeding includes both matters covered by EAJA and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

(d) *Eligibility of applicants.* (1) To be eligible for an award of attorney fees and other expenses under EAJA, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this section and § 502.502.

(2) The types of eligible applicants are:

(i) An individual with a net worth of not more than $2 million;

(ii) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees;

(iii) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(iv) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(v) Any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than $7 million and not more than 500 employees.

(3) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(4) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(5) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(6) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interests of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interests, will be considered an affiliate for purposes of this subpart, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of EAJA in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(7) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

(e) *Standards for awards.* (1) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. The position of the agency includes, in addition to the position taken by the agency in the adversary adjudication, the action or failure to act by the agency upon which the adversary adjudication is based. The burden of proof that an award should not be made to an eligible prevailing applicant is on agency counsel.

(2) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

(f) *Allowable fees and expenses.* (1) Awards will be based on rates customarily charged by the persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at the reduced rate to the applicant.

(2) No award for the fee of an attorney or agent under this subpart may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Commission pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(3) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the adjudicative officer shall consider the following:

(i) If the attorney, agent or witness is in private practice, his or her customary fees for similar services, or, if an employee of the applicant, the fully allocated costs of the services;

(ii) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(iii) The time actually spent in the representation of the applicant;

(iv) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(v) Such other factors as may bear on the value of the services provided.

(4) The reasonable cost of any study, analysis, engineering report, test project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the services does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of applicant's case.

(g) *Awards against other agencies.* If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Commission and takes a position that is not substantially justified, the award or an appropriate portion of the award shall be made against that agency.

§ 502.502 Information required from applicants.

(a) *Contents of petition.* (1) An application for an award of fees and expenses under EAJA shall be by petition under § 502.69 of this part, shall clearly indicate that the application is made under EAJA, and shall identify the applicant and the proceeding (including docket number) for which an award is sought. The application shall show that the applicant has prevailed and identify the position of an agency or agencies that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(2) The petition shall also include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(i) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(ii) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(3) The petition shall state the amount of fees and expenses for which an award is sought.

(4) The petition may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(5) The petition shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(b) *Net worth exhibit.* (1) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its petition a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 502.501(d)(6) of this subpart) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this subpart. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(2) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act under §§ 503.31–503.43 of this chapter.

(c) *Documentation of fees and expenses.* The petition shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rates at which each fee has been computed, any expenses for which reinbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

(d) *When a petition may be filed.* (1) A petition may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Commission's final disposition of the proceeding.

(2) For purposes of this subpart, final disposition means the date on which a decision or order disposing of the merits of the proceeding or any other complete resolution of the proceeding, such as a settlement or voluntary dismissal, becomes final and unappealable, both within the Commission and to the courts.

(3) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy. When the United States appeals the underlying merits of an adversary adjudication to a court, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.

§ 502.503 Procedures for considering petitions.

(a) *Filing and service of documents.* (1) Any petition for an award or other pleading or document related to a petition shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 502.502(b)(2) (confidential financial information).

(2) The petition and all other pleading or documents related to the petition will be referred to an Administrative Law Judge to initially decide the matter as adjudicative officer.

(b) *Reply to petition.* (1) Within 30 days after service of a petition, counsel representing the agency against which an award is sought may file a reply to the petition. Unless counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b)(2) of this section, failure to file a reply within the 30-day period may be treated as a consent to the award requested.

(2) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing a reply for an additional 30 days, and further extension may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(3) The reply shall explain in detail any objections to the award requested and identify the facts relied on in support of counsel's position. If the reply is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the reply either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(c) *Response to reply.* Within 15 days after service of a reply, the applicant may file a response. If the response is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the response either supporting affidavits or a request for further proceedings under paragraph (f) of this section.

(d) *Comments by others parties.* Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served, or on a reply, within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

(e) *Settlement.* The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded in accordance with the rules of this subpart pertaining to settlement. If a prevailing party and agency counsel agree on a proposed settlement of an award before a petition is filed, the petition shall be filed with the proposed settlement.

(f) *Further proceedings.* (1) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or, as to issues other than substantial justification (such as the applicant's eligibility or substantiation of fees and expenses), pertinent discovery or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible. Whether or not the position of the agency was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.

(2) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

(g) *Decision.* The adjudicative officer shall serve an initial decision on the application within 60 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reason for the allocation made.

(h) *Commission review.* Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the Commission may decide to review the decision on its own initiative, in accordance with § 502.227 of this part. If neither the applicant nor agency counsel seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the Commission 30 days after it is issued. Whether to review a decision is a matter within the discretion of the Commission. If review is taken, the Commission will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

(i) *Judicial review.* Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

(j) *Payment of award.* (1) (i) An applicant seeking payment of an award shall submit to the comptroller or other disbursing officer of the paying agency a copy of the Commission's final decision granting the award, accompanied by a certification that the applicant will not seek review of the decision in the United States courts.

(ii) The agency will pay the amount awarded to the applicant within 60 days.

(2) Where the Federal Maritime Commission is paying agency, the application for payment of award shall be submitted to: Office of Budget and Financial Management, Federal Maritime Commission, Washington, DC 20573.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87-17180 Filed 7-28-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-296]

Radio Broadcasting Services; Roscommon, MI; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an erroneous date in the Final Rule (Report and Order) in this proceeding concerning an FM allotment to Roscommon, Michigan.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheurle, Mass Media Bureau, telephone (202) 634–6530.

SUPPLEMENTARY INFORMATION: On June 24, 1987, at 52 FR 23659, the Commission published a Final Rule in this proceeding concerning an FM Allotment to Roscommon, Michigan. Inadvertently, the date on which the window period will close for filing applications was stated as being August 31, 1987. The correct date is September 2, 1987.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–17163 Filed 7–28–87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845–7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustment and request for comments.

SUMMARY: NOAA announces an adjustment to recreational ocean salmon management measures from the Queets River to Leadbetter Point, Washington. The adjustment modifies the areas closed to recreational salmon fishing. The Director, Northwest Region, NMFS (Regional Director), has determined, in consultation with representatives of the Pacific Fishery Management Council (Council), the Oregon Department of Fish and Wildlife (ODFW), and the Washington Department of Fisheries (WDF), that the adjustment is necessary to conform to the chinook quotas established in the preseason announcement of 1987 management measures. This action is intended to extend the recreational season.

EFFECTIVE DATES: Modification of the closed area for the recreational fishery from the Queets River to Leadbetter Point, Washington, is effective at 900 hours local time, July 27, 1987. Comments on this notice will be received until August 11, 1987.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, (Regional Director) at 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries are codified at 50 CFR Part 661. Management measures for 1987 were effective on May 1, 1987 (52 FR 17264, May 6, 1987). The 1987 recreational fishery for all salmon species north of Cape Falcon, Oregon, is divided into three subareas. The recreational season in all three subareas began on June 28 and will continue through the earliest of September 24, attainment of subarea chinook or coho quotas, or attainment of overall troll and recreational chinook or coho quotas for the area between Cape Falcon, Oregon, and the U.S.-Canada border.

For the subarea from the Queets River to Leadbetter Point (central subarea), the area from 0 to 3 nautical miles offshore was closed under preseason regulations. Recent inseason adjustments changed the area closed to recreational fishing, the subarea chinook quota, and the daily bag limit (52 FR 25605, July 8, 1987; 52 FR 27560, July 22 1987). The subarea currently has quotas of 27,750 chinook and 74,300 coho salmon; the daily bag limit is 2 fish, only 1 of which may be a chinook; and the area from 0 to 10 miles offshore is closed to recreational fishing.

According to the best available information, landings in the central subarea through July 19 total 17,300 chinook and 13,400 coho salmon. About 62 percent of the subarea chinook quota has been taken, compared with only 18 percent of the subarea coho quota. The highest proportion of chinook has been in catches north of the entrance to Grays Harbor and in near-shore areas south of Grays Harbor. Unless further inseason action is taken to slow the catch of chinook, the fishery will close upon attainment of its chinook quota with a large portion of its coho quota unharvested.

NOAA therefore issues this notice to adjust the recreational salmon fishery in the exclusive economic zone (EEZ) from the Queets River to Leadbetter Point, Washington, by establishing modified closed areas for recreational fishing as follows:

(1) The area inside a line projected from the western end of the Grays Harbor south jetty southwesterly along the Red Buoy Line to the GH Buoy (46°51′54″ N. latitude; 124°14′20″ W. longtitude), then due west along 46°51′54″ N. latitude to the western boundary of the EEZ, then north to 47°31′42″ N. latitude, then due east to the mouth of the Queets River.

(2) The area inside a line projected from the western end of the Grays Harbor south jetty southwesterly along the Red Buoy Line to the GH Buoy (46°51′54″ N. latitude; 124°14′20″ W. longitude), then due west along 46°51′54″ N. latitude to 6 nautical miles offshore (46°51′54″ N. latitude; 124°15′42″ W. longitude), then southerly 6 miles west of the coastline to 46°38′10″ N. latitude, then due east to Leadbetter Point.

This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in this or other areas.

The Regional Director consulted with representatives of the Council, ODFW, and WDF regarding this inseason adjustment for the recreational fishery from the Queets River to Leadbetter Point, Washington. The WDF representative confirmed that Washington will manage recreational fishery in State waters adjacent to this area of the EEZ in accordance with this Federal action.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: July 24, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–17253 Filed 7–27–87; 10:41 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 145
Wednesday, July 29, 1987

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Almonds Grown in California; Administrative Rules and Regulations Concerning Crediting for Marketing Promotion and Paid Advertising Expenditures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change administrative rules and regulations established under the Federal marketing order for California almonds to: (1) Allow handlers of California almonds to receive credit against their annual advertising assessments for their unreimbursed media expenditures for advertising in any foreign market pursuant to a contract with the California Department of Food and Agriculture; (2) add Australia, Korea, New Zealand, People's Republic of China, Philippines, and Taiwan to a list of foreign markets where handler media expenditures for brand advertising of almonds are eligible for credit; (3) delete a limitation which provides that credit for media expenditures for brand advertising in a foreign market shall not exceed 20 percent of a handler's advertising assessments or $500,000 for each crop year, whichever is greater; and (4) extend the date by which handlers must submit documented proof in order to receive credit for the distribution of sample package of almonds to charitable or educational outlets. These changes would give handlers additional flexibility in meeting their assessment obligations.

DATE: Comments must be received by August 28, 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 Exective 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 acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 105 handlers of almonds under the marketing order for California almonds would be subject to regulation during the course of the current season. There are approximately 7,500 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. The majority of handlers and producers of California almonds may be classified as small entities.

The proposal would provide handlers additional time to submit documentation in support of claims for credit for the distribution of sample packages of almonds to charitable or educational outlets and, thereby, provide a uniform method for filing claims for all marketing promotion and paid advertising activities. Therefore, it is the Agency's view that the proposal would relieve restrictions on handlers and, thus, would not impose any additional costs to handlers.

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.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection provision that is included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). It is not effective until OMB approval has been obtained.

This proposal would revise § 981.441 of Subpart—*Administrative Rules and Regulations* issued under marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California. The order is effective under the Act. The proposal is based on unanimous recommendations of the Almond Board of California (Board), which is responsible for local administration of the order, and upon other available information.

Section 981.41(c) of the order provides that the Board, with the approval of the Secretary, may allow handlers to receive credit for their direct marketing promotion expenditures, including paid advertising, against their annual advertising assessments. That paragraph also provides that a handler shall not receive credit for allowable expenditures that would exceed that portion of such handler's assessment obligation which is designated for marketing promotion, including paid advertising. Section 981.41(e) provides that before crediting is undertaken, and once a recommendation is received from the Board, the Secretary shall prescribe appropriate rules and regulations as are necessary to effectively administer provisions for creditable advertising expenditures.

Section 981.441 currently prescribes rules and regulations to regulate the crediting of payments to advertising media, for distribution of sample packages of almonds to charitable and educational outlets, for promotional materials purchased from the Board, and

for certain costs related to mail order promotions. The proposal would revise § 981.441(c)(4), concerning crediting of payments to advertising media in foreign markets, and § 981.441(d)(1)(i), concerning the distribution of sample packages of almonds to charitable or educational outlets.

Section 981.441(c)(4)(i) currently prescribes credit for a handler's unreimbursed media expenditures for advertising in any foreign market pursuant to a contract with the Foreign Agricultural Service (FAS), U.S. Department of Agriculture, provided the advertisements meet requirements provided for in § 981.441. This proposal would revise § 981.441(c)(4)(i) to also allow handlers credit for such expenditures pursuant to a contract with the California Department of Food and Agriculture (CDFA). In 1986, the CDFA initiated a program similar to the FAS export assistance program, whereby the CDFA contributes funds to handler projects to promote agricultural commodities abroad. The proposal would allow credit only for those funds contributed by handlers themselves and not reimbursed by the CDFA. Also, credit would only be allowed for handler funds used for paid media advertising.

Section 981.441(c)(4)(ii) currently allows a handler to receive credit for media expenditures for brand advertising in 16 foreign countries. This credit is in addition to the previously discussed credit for advertising pursuant to a contract with the FAS. The total of this additional foreign credit may not exceed 20 percent of a handler's advertising assessments or $500,000 for each crop year, whichever is greater. The 16 countries are Great Britain, France, Italy, West Germany, Denmark, Belgium, Ireland, Luxembourg, the Netherlands, Sweden, Norway, Finland, Switzerland, Singapore, Hong Kong, and Japan. Such claims for credit must be substantiated by applicable rate cards. The relevant administrative provisions of this section applicable to domestic advertising also apply to the crediting of advertising in these countries.

It is proposed to revise § 981.441(c)(4)(ii) to add Australia, Korea, New Zealand, People's Republic of China, Philippines, and Taiwan to the list of 16 foreign countries where a handler's media expenditures for advertising may receive foreign advertising credit. It is believed that standard schedules of rates for media advertising are available for these countries to allow the Board to substantiate claims for credit as reasonable and appropriate. These countries are increasingly important markets for California almonds, and handler's should be encouraged to develop the market potential in these countries through advertising.

It is also proposed to revise § 981.441(c)(4)(ii) by deleting the limitation which provides that credit for media expenditures for brand advertising in designated foreign markets shall not exceed 20 percent of a handler's advertising assessments or $500,000 for each crop year, whichever is greater. Thus, handlers would be eligible for 100 percent of their brand advertising media expenditures in designated foreign markets subject to limitations applicable to credit for domestic advertising.

Many handlers market all or most of their crop in export. While most handlers incur an annual advertising assessment of less than $500,000 and are, therefore, not limited in the amount of credit they may receive for foreign brand advertising, a few handlers are limited. This change would give all handlers opportunties to receive credit for brand advertising in foreign markets which are comparable to opportunites for credit in domestic markets.

Section 981.441(d)(1)(i)(F) currently provides that no credit shall be granted for the distribution of sample packages containing one-half ounce or less of almonds to charitable or educational outlets without receipt by the Board of acceptable proof of distribution. This proof shall consist of a signed statement from the organization to which sample package were distributed, on that organization's letterhead, stating: (1) The name and address of the handler from whom the packages were received; (2) the date of receipt; (3) the volume of packages received; (4) how such packages will be used; and (5) a statement that such packages will not be used for resale. This proof must be submitted to the Board no later than July 15 of the crop year succeeding the crop year during which the packages are distributed and for which credit is requested except as provided in § 981.441(b). Section 981.441(b) provides that a handler may receive credit up to a maximum of 40 percent of such handler's annual advertising obligation for expenditures for advertisements published, broadcast, or displayed and other marketing promotion activities (including the distribution of sample packages) conducted no later than December 31 of the succeeding crop year if the required documentation is submitted to the Board no later than the following January 31. The crop year under the order is the 12 months from July 1 to the following June 30, inclusive.

It is proposed to revise § 981.441(d)(1)(i)(F) to give handlers until October 15 to submit documented proof of their distribution of sample packages. Handlers would be required to file preliminary claims on ABC Form 31 on or before July 15 of the succeeding crop year, stating that proof of distribution would be submitted as expeditiously as possible, but no later than October 15. Handlers would have until October 15 to file final claims on ABC Form 31 with the appropriate proof of distribution. The proposal would not affect the 40 percent deferment provided for in § 981.441(b).

This change would require handlers to file claims for credit for the distribution of sample packages at the same time and in the same manner as claims for credit for advertising expenditures and costs related to mail order promotions. The proposal would correct a previous oversight to ensure that filing procedures for claiming credit for various types of authorized marketing promotion and paid advertising activities are uniform.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

For the reasons set forth in the preamble, 7 CFR Part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Administrative Rules and Regulations

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

2. Amend § 981.441 by revising paragraphs (c)(4)(i), (c)(4)(ii), and (d)(1)(i)(F) to read as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(c) * * *

(4) * * *

(i) For a handler's unreimbursed media expenditures for advertising in any foreign market pursuant to a contract with the Foreign Agricultural Service, U.S. Department of Agriculture, and/or the California Department of Food and Agriculture, provided the advertisements meet the requirements of

paragraphs (c) (2) and (3) of this section and the limitations of paragraphs (c)(5) (i) and (ii) of this section.

(ii) For a handler's media expenditures for brand advertising in Australia, Belgium, Denmark, Finland, France, Great Britian, Hong Kong, Ireland, Italy, Japan, Korea, Luxembourg, the Netherlands, New Zealand, Norway, Philippines, People's Republic of China, Singapore, Sweden, Switzerland, Taiwan, and West Germany, credit shall be allowed when claims are substantiated by applicable rate cards. The provisions of this section applicable to domestic advertising shall also apply to the crediting of advertising in these markets.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(F) Handlers must file claims with the Board in order to receive credit for the distribution of sample packages. Except as provided in paragraph (b) of this section, no credit shall be granted unless a preliminary claim is filed on or before July 15 of the succeeding crop year and a final claim is filed on or before October 15 of the succeeding crop year. Each preliminary claim must be filed on an ABC Form 31 (claim for advertising credit), stating that proof of distribution will be submitted as expeditiously as possible, but no later than October 15. If this preliminary claim is not filed on or before July 15, there will be no consideration of the claim under any circumstances. Each final claim must be submitted on ABC Form 31 and accompanied by appropriate proof of performance. This proof shall consist of a signed statement from the organization to which sample packages were distributed, on that organization's letterhead, stating:

(1) The name and address of the handler from whom the packages were received;

(2) The date of receipt;

(3) The volume of packages received;

(4) How such packages will be used; and

(5) A statement that such packages will not be used for resale.

* * * * *

Dated: July 21, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87-17032 Filed 7-28-87; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 227

[Reg. AA; Docket No. R-0606]

Unfair or Deceptive Acts or Practices; Application for Exemption From the State of California

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make an exemption determination.

SUMMARY: The Board has received from the state of California an application for an exemption from § 227.14 of the Board's Credit Practices Rule, Regulation AA (Unfair or Deceptive Acts or Practices). The rule prohibits banks from entering into consumer credit obligations that contain certain prohibited provisions, from using a certain late-charge practice, and from obligating a cosigner prior to providing a required notice explaining the cosigner's obligations. The Board is publishing notice of the California application, with an opportunity for public comment, in accordance with § 227.16(b) of Regulation AA. That section provides that the exemption procedures detailed in Appendix B to Regulation Z (Truth in Lending, 12 CFR Part 226) will be followed in applications for an exemption from the Credit Practices Rule.

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

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the Mail Services courtyard entrance, on 20th Street between C Street and Constitution Avenue, NW., Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to Docket No. R-0606. Comments may be inspected in Room B-1122 between 8 45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452-2412; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

(1) Background

In April 1985 the Board adopted the Credit Practices Rule, 12 CFR Part 227 (50 FR 16695), thereby amending Regulation AA, Unfair or Deceptive Acts or Practices. The Board's rule, which became effective on January 1, 1986, followed the adoption by the Federal Trade Commission (FTC) of its Credit Practices Rule in March 1984 (49 FR 7740).[1] The Board's rule applies to all banks and their subsidiaries. Staff guidelines designed to aid banks in complying with the Credit Practices Rule were issued in November 1985 (50 FR 47036). The first update to the guidelines was issued in October 1986 (51 FR 39646).

The Credit Practices Rule prohibits banks from entering into any consumer credit obligation that contains a confession of judgment clause, a waiver of exemption, an assignment of wages, or a nonpossessory, nonpurchase money security interest in certain household goods; and it prohibits the enforcement of these provisions in a consumer credit obligation purchased by a bank. The rule also prohibits a practice known as "pyramiding" of late charges: A bank is barred from assessing multiple late charges based on a single delinquent payment that is subsequently paid. In addition, the rule prohibits a bank from misrepresenting a cosigner's liability and requires the bank to give a cosigner, before the person becomes obligated in a consumer credit transaction, a disclosure notice that explains the nature of the cosigner's obligations and liabilities under the contract.

Compliance with the Board's Credit Practices Rule is provided through administrative enforcement (including compliance examinations and investigations). Noncompliance with the rule may involve actions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), including cease and desist orders and the imposition of penalties up to $1,000 per day for violation of an order.

(2) California's Exemption Application

The state of California, through its Attorney General, has applied to the Board for an exemption from § 227.14 of the Board's Credit Practices Rule. The

[1] Under sections 18(a)(1)(B) and 5(a)(1) of the Federal Trade Commission Act (FTC Act), the FTC is authorized to promulgate rules that define and prevent "unfair or deceptive acts or practices" in or affecting commerce with respect to extensions of credit to consumers. Section 18(f) of the FTC Act provides that whenever the FTC promulgates a rule prohibiting practices which it has deemed to be unfair or deceptive, the Board, with certain limited exceptions, must adopt a substantially similar rule prohibiting such practices by banks. The Federal Home Loan Bank Board (FHLBB) is also required under section 18(f) to adopt a rule substantially similar to that of the FTC for institutions that are members of the Federal Home Loan Bank Board System; the FHLBB did so in May 1985 (50 FR 19325), with its rule also taking effect on January 1, 1986.

application contains copies of provisions of California's Business and Professions Code and California's Civil Code and a comparison of the cosigner provision of the Board's Credit Practices Rule and the relevant California statutory provisions. The application gives information about the public enforcement activities of the consumer law section of the Attorney General's office and of the 58 county district attorney offices, and about the California Banking Department's examination and enforcement activities.[2]

The Board's rule (§ 227.16) states that, in applications for an exemption from its Credit Practices Rule, the procedures to be followed are the same as those detailed in Appendix B to Regulation Z (Truth in Lending, 12 CFR Part 226) for exemptions from that regulation. Accordingly, the Board is publishing notice of California's application for an exemption determination. This notice summarizes the exemption application and includes a comparison of the relevant provisions of California law and the Board's Credit Practices Rule. In order to expedite final action on the exemption request, there will be a 30-day comment period. Subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261), copies of the California application are available from the Board in Washington and from the Federal Reserve Bank of San Francisco.

Section 227.16 of the Board's Credit Practices Rule provides that if a state applies for an exemption, the exemption may be granted if the Board determines that: (1) There is a state requirement or prohibition in effect that applies to any transaction to which the Credit Practices Rule applies: and (2) the state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Board's rule. If the Board makes that determination, the prohibition or requirement in the Board's rule will not be in effect, to the extent specified by the Board, for as long as the state effectively administers and enforces the state law requirement or prohibition. The effect of an exemption is that in that state any bank or bank subsidiary that is subject to the Board's rule will be subject solely to state law and enforcement, with one exception. An exemption would not apply to federally-chartered institutions.

Applicable state law provisions need not be the same as the comparable federal requirement in order to meet the rule's "substantially equivalent" standard. Variations, however, should not deprive consumers of the protections provided by federal law. The analysis also focuses on the ways in which the state demonstrates a commitment to enforcement and administration of the state's law; factors such as staffing, training activities, examination and administrative procedures' and other indicators of enforcement efforts may be considered, as well as the existence under state law of any private right of action by aggrieved consumers.

(3) A Comparison of California Law and the Board's Credit Practices Rule

The state of California asserts that certain provisions of California's Business and Professions Code (section 17200 et seq. and section 17500 et seq.) and California's Civil Code (section 1799.90 et seq.) afford greater protection to consumers than does the cosigner provision of the Board's Credit Practices Rule, and that an exemption should therefore be granted by the Board for as long as the California provisions remain in effect. A comparison of the relevant provisions of California law (as described by the California exemption application) and the cosigner provision of the Board's rule is set forth below.

A. Cosigner Notice Requirements

1. Coverage

Section 1799.91(a) of the California Civil Code requires a creditor that obtains the signature of more than one person on a consumer credit contract to deliver (before a person becomes obligated on the contract) a cosigner notice to any person who signs the contract and does not in fact receive any of the money, property or services which are the subject of the contract, unless the persons are married to each other. A creditor is defined as any person or entity that enters into or arranges for consumer credit contracts in the ordinary course of business (Civil Code section 1799.90(b)). Consumer credit contracts are obligations primarily for personal, family or household purposes which are to be paid on a deferred basis. They include retail installment contracts and accounts, conditional sales contracts, credit extensions that are unsecured or secured by personal property, and credit extensions, however secured, that are arranged by real estate brokers or made by consumer finance lenders (Civil Code section 1799.90(a)). California Civil Code section 1799.99 mandates that the cosigner notice be given in other transactions, other than consumer credit contracts as defined by state law, that are subject to the Board's Credit Practices Rule as well as the rules of the FTC and the FHLBB. A creditor in California must also give each person signing the consumer credit contract a copy of the debt instrument, security agreement, and any other document evidencing that person's obligation (Civil Code section 1799.93(b)).

The Credit Practices Rule requires a bank to provide a cosigner with a written notice of his or her obligation before the cosigner becomes obligated for an extension of consumer credit (§ 227.14(b)). A bank is not required to give a cosigner copies of the documents evidencing the obligation. Any consumer credit transaction (other than for the purchase of real property) made primarily for personal, family or household use is covered by the rule (§ 227.12(a)).

2. Content of the Notice

Under the Board's Credit Practices Rule, a bank must provide the prescribed disclosure statement to the cosigner, or one that is substantially similar (§ 227.14(b)). The notice must be clear and conspicuous. It can be contained on the document evidencing the credit obligation or on a separate document.

The California cosigner notice is identical to the notice contained in § 227.14(b) of the Board's Credit Practices Rule. The notice must be in at least 10-point type and can be placed on the contract or other documents establishing liability or on a separate document (Civil Code section 1799.91(a)). If the notice is contained on a separate document it can also include an identification of the consumer and the consumer credit contract to which it refers, the date, and the consumer's acknowledgement of receipt (Civil Code section 1799.92(b); *see also* Board Staff Guidelines, Q14(b)–9). A Spanish language translation of the notice is required to accompany the English version, and if the contract is written in still another language the notice must be translated into that language (Civil Code section 1799.91 (a), (b): *see also* Board Staff Guidelines, Q14(b)–16 and 17).

3. Definition of Cosigner

Under the Board's rule, any natural person who assumes liability for the obligation of a consumer, without

[2] The state of California submitted similar applications to the FTC and to the FHLBB, in order to obtain exemptions from the cosigner provisions of the credit practices rules of those agencies. The California exemption request to the FTC has been published in the **Federal Register** for public comment. 51 FR 30875 (1986) No final determination by the FTC has as yet been made. To date no action has been taken by the FHLBB.

receiving goods, services or money in return for the obligation, is a cosigner. In the case of an open-end credit obligation, a cosigner is a natural person who assumes liability without receiving the contractual right to obtain extensions of credit on an open-end account (§ 227.12(b)(1)). A person who merely pledges property to secure a consumer credit obligation is not a cosigner for purposes of the Board's rule (Board Staff Guidelines, Q12(b)–5).

The California Civil Code does not provide a specific definition of cosigner; however, section 1799.91 requires that the disclosure notice be given to each person, except a spouse, who signs a consumer credit contract and does not in fact receive the money, property or services that are the subject of the contract. A person who pledges collateral to secure a consumer credit obligation (even without assuming personal liability) is, therefore, entitled to receive a disclosure notice under California law.

4. Cosigning Spouses

The Board's rule requires that a cosigner notice be given to all persons who fall within the cosigner definition, including spouses. California law excludes spouses from receipt of a cosigner notice.

Under California law, all real property situated in California and all personal property acquired during marriage is deemed to be community property (Civil Code section 5110). A spouse's share of community property generally will be liable for the other spouse's debts whether or not both spouses undertake a credit obligation (Civil Code section 5120.110). A married person in California may have separate property in addition to community property. Separate property may consist of property acquired before the marriage or through gift or inheritance (Civil Code sections 5107, 5108). This separate property is not liable for the debts incurred by a spouse unless the debts are incurred to obtain the "necessities of life" (Civil Code sections 5120.130(b), 140(a)(1)). As a result, when a nonapplicant spouse cosigns a spouse's obligation, in addition to community property, that spouse's separate property becomes available to satisfy the debt in the event of default.

California's Attorney General asserts in the state's exemption application that California law does not require a creditor to give a cosigner notice to a spouse because the notice would be a misleading statement of legal responsibilities under California's marital property law.

The Attorney General maintains that giving a spouse the cosigner notice may potentially mislead the spouse to conclude that if he or she does not sign the credit obligation, he or she will not be liable for the spouse's debt, even though California's marital property law provides otherwise. California states that the cosigner notice would have to be modified substantially to reflect accurately California's marital property law; and believes that such modifications would be so complex as to undermine the notice's effectiveness in explaining the consequences of cosigning an obligation.

The Attorney General also maintains that a cosigning spouse subject to California law would generally not fall within the Board's definition of a cosigner. Money or property acquired by either spouse on the credit of community property or the personal credit of either spouse is presumed to be community property.[3] Both spouses are legally entitled to enjoy, use, manage and control community property. (*See* Cal. Civ. Code section 5125.) Therefore, both spouses would be entitled to the proceeds of the credit obligation. Under the Board's rule, a cosigner notice need only be given to a person who assumes liability without receiving money, property or services. Consequently, the California Attorney General argues that as long as community property assets are available to a bank to satisfy an obligation, even if a nonapplicant spouse were also to obligate his or her separate property by cosigning a spouse's obligation, a bank in California would not be required to give the Board's cosigner notice to the cosigning spouse. The Attorney General suggests that in California the situation in which the Board's cosigner notice would have to be given to a nonapplicant spouse (where no community property is being relied upon to satisfy a debt) is virtually nonexistent.

B. Misrepresentation of Cosigner Liability

Under the Credit Practices Rule, it is a deceptive act or practice for a bank to misrepresent the nature and extent of a cosigner's liability to any person in connection with an extension of credit to consumers (§ 227.14(a)(1)).

Misrepresentation of cosigner liability is not specifically prohibited by California law. Section 17500 of the California Business and Professions Code does, however, prohibit a person from disseminating untrue or misleading statements in order to induce the public into entering into an obligation. This section has been interpreted by California case law to include actions by financial institutions. In addition, California case law has held that proof of actual deception, intent of the disseminator, knowledge of the consumer's reliance on the statement, or damages are unnecessary to establish a violation of the section.

Section 17200 of the California Business and Professions Code prohibits a wide range of business practices constituting unfair competition. Unfair competition is defined to include unlawful, unfair, or fraudulent business practices. These prohibitions have been interpreted by California case law to protect consumers as well as businesses from the prohibited practices.

C. Remedies and Enforcement

Compliance with the provisions of the Credit Practices Rule is provided through administrative enforcement, including periodic compliance examinations and investigations. Failure to comply with the cosigner provision of the Board's rule is deemed an unfair or deceptive act or practice. The rule does not per se alter the obligation between the bank and the cosigner. No private right of action is provided under the Board's Credit Practices Rule. Noncompliance may result in administrative actions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), including the issuance of cease and desist orders and the imposition of penalties of up to $1,000 per day for violation of an order.

To assure compliance with the state law provisions affecting cosigners, California states that it relies on the private remedy and public enforcement, through the state's unfair business practices law, by various prosecutorial agencies. If a creditor fails to comply with the California cosigner requirements, the creditor is barred from bringing any action or enforcing any security interest against a person entitled to receive notice who did not in fact receive any of the money, property or services involved in the contract (Civil Code section 1799.95).

California courts are empowered to issue injunctive relief, order restitution, and fashion any appropiate equitable order to redress the dissemination of untrue or misleading statements and any unlawful business practice. An action for an injunction, restitution, and other equitable relief may be brought by the Attorney General, any of the 58 district

[3] The state cites Civil Code section 5110 and case law in support of this position. *See In re marriage of Fischer*, 78 Cal. App. 3d 556, 561, 146 Cal. Rptr. 561 (1978); *Ford* v. *Ford*, 276 Cal. App. 2d 9, 12–13, 80 Cal. Rptr. 435 (1969).

attorneys, and local prosecutors. The Attorney General, the district attorneys, and certain local prosecutors can obtain a mandatory civil penalty of up to $2500 for a violation of each of the statutes. In addition, these agencies may seek a civil penalty of up to $6,000 per day for each violation of an injunction issued pursuant to Business and Professions Code sections 17203 and 17535. Section 17204 and 17535 provide that actions for injunctive relief may also be brought by any person acting for the interests of itself, its members or the general public. Thus, California case law has held that individuals and organizations have standing to redress violations of these provisions even if they were not directly aggrieved by the violations.

(4) Comments Requested

Interested persons are invited to submit written comments on the state of California's application for an exemption from § 227.14 of the Board's Credit Practices Rule. The Board solicits comment on whether the provisions of California law affecting cosigners affords a level of protection to consumers that is substantially equivalent to, or greater than, the protections afforded by the cosigner provision of the Board's rule. In particular, the Board solicits comment on the following:

- Whether excluding spouses from receipt of a cosigner notice, under the California law, adversely affects the level of protection afforded married persons in light of the state's community property law.
- Whether the provisions of California law on unfair competition and misleading statements afford consumers a level of protection that is substantially equivalent to, or greater than, the provision of the Board's rule concerning misrepresentation of cosigner liability.
- Whether the remedy for violation of the California provisions affecting cosigners affords consumers a level of protection that is substantially equivalent to, or greater than, that afforded by the Board's rule.
- Whether California administers and enforces its laws, as they relate to cosigners of consumer credit obligations, effectively.

After the close of the comment period, based upon its own analysis and a review of the comments received, the Board will make its final determination on the exemption request. Notice of the final action will be published in the **Federal Register.**

List of Subjects in 12 CFR Part 227

Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance.

Board of Governors of the Federal Reserve System, July 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17108 Filed 7-28-87; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 703, and 721

Organization and Operations of Federal Credit Unions; Investment and Deposit Activities; and Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The NCUA Board proposes to amend its regulations on Investments in and Loans to Credit Union Service Organizations (12 CFR 701.27), FCU Ownership of Fixed Assets (12 CFR 701.36), Investment and Deposit Activities (12 CFR Part 703), and Federal Credit Union Insurance and Group Purchasing Activities (12 CFR Part 721) by revising the definition of the term "immediate family member" as used therein and by adding a new definition, "senior management employee," to those provisions of its regulations. The purpose of this proposal is to narrow the scope of the rules as they relate to potential conflicts of interest by credit union directors, committee members, employees, and their immediate family members. This proposal would provide consistency between these regulations and the final rule on member business loans issued by the NCUA Board on April 9, 1987.

DATE: Comments must be received on or before September 21, 1987.

ADDRESS: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Steven R. Bisker, Assistant General Counsel, at the above address or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1987, the NCUA Board issued final rules relating to member business loans made by federally-insured credit unions, and to preferential treatment and prohibited fees on business and other loans. *See,* 52 FR 12365 (April 16, 1987). Those final rules defined the phrase "immediate family member" to mean "a spouse or other family member living in the same household" as a credit union official or senior management employee of a credit union. (12 CFR 701.21(c)(8), 701.21(d)(5), and 701.21(h)(1)(iv).) The phrase "senior management employees" was, in turn, defined to mean a credit union's chief executive officer, any assistant chief executive officers, the chief financial officer, and, in the case of prohibitions on business loans, any compensated director. (12 CFR 701.21(c)(8) and 701.21(h)(3).) The use of these definitions narrowed the application of the prohibition portions of the lending rules in order to avoid unnecessarily interfering with the ability of family members of credit union officials to do business with and provide services to a credit union, and yet should effectively eliminate conflicts of interest. The principal concern is with those officials that have the authority to make or influence decisions that can affect their pecuniary interest.

At the time the NCUA Board adopted the new lending rule amendments, it noted that it would review other provisions of its rules and regulations where the term "immediate family members" appears and consider revisions to make the use of the term consistent. (*See,* 52 FR 12365 at 12366.) Where appropriate, this would also include adding a definition of the term "senior management employees." The Board has done so and is now proposing amendments to the following sections of its rules: § 701.27 (c) and (d), credit union service organizations; § 701.36 (b) and (e), fixed assets; § 703.2 and 703.4, investment and deposit activities; and § 721.2(c), insurance and group purchasing activities.

Discussion

All of the rules proposed for amendment relate to potential conflicts of interest by credit union directors, committee members, employees, and their immediate family members. Section 701.27(d)(6) involves the prohibition on the receipt by such individuals of any salary, commission, investment income, or other income or compensation from a CUSO, either directly or indirectly, or from any person being served through the CUSO. Section 701.36 (e) concerns the prohibition (except if prior written NCUA approval is obtained) on the acquisition or lease of the credit union's premises from such individuals directly or from corporations

or partnerships in which they have a 10 percent or more ownership interest. Section 703.4 (e) prohibits the receipt by such individuals of pecuniary consideration in connection with the making of an investment or deposit by the credit union. And, lastly, § 721.2 (c) precludes such individuals from receiving any compensation or benefit, directly or indirectly, in conjunction with any insurance or group purchasing activity.

In each instance, the conflict of interest sought to be eliminated exists where the individuals involved are in a position of authority in the credit union so as to influence or make decisions that can affect their pecuniary interest. Most employees do not, as a practical matter, have such power. Therefore, the risk that a decision will be based on self-interest instead of the interest of the credit union is not readily present with lower level employees. Typically, only those employees in senior management, such as the manager, assistant manager, or comptroller, are in positions to make decisions or to influence decisions. The NCUA Board is proposing to amend §§ 701.27(d)(6), 701.36(e), 703.4(e), and 721.2(c) by substituting "senior management employee" for "employees" wherever the term appears. Additionally, the term "senior management employee" will be defined in each of these Sections consistent with the definition in the recently amended lending rule (§ 701.21(c)(8)).

These proposed rules will also revise the definition of "immediate family member" in §§ 701.27(b)(3), 701.36(b)(6), 703.2(i), and 721.2(c), to include only a spouse and other relatives living in the same household. Those commenting on the definition, as it was proposed in the business lending rule, asserted that the list of relatives included in the definitions (i.e., spouse, child, parent, grandchild, grandparent, brother or sister, or spouse of any such individual) was overly broad and unwarranted and the Board recognizes that this may also be the case with the current rules that it now proposes to amend. The prohibition has proven to be particularly onerous for credit unions located in small communities where the likelihood of a credit union involving itself with an immediate family member, as currently defined, is significant. Again, provided that all transactions and dealings with the family members, who would be excluded from the definition as proposed, are conducted at arm's length and in the best interest of the credit union, the Board believes that the overall effect of the amendments can be beneficial to credit unions. In this regard, the Board requests comments on whether the amendments should specifically include requirements regarding the arm's length nature of transactions and the best interest of the credit union.

Request for Comments

In addition to comments on the amendments contained in this proposal and as requested above, the Board is interested in receiving comments on whether the individual amendments should also specify additional employee positions that are related to the credit union activity covered by each particular regulation.

Although the proposed amendments are designed to narrow the scope of the applicability of the various conflicts of interest provisions, the Board is concerned that there may be employee positions that, because of the nature of the job performed, should still be subject to conflict of interest proscriptions even though the particular employee may not be senior management or have general decisionmaking authority. For example, the current lending rule includes loan officers in the list of credit union personnel covered in the provision on prohibited fees. (§ 701.21(c)(8).) In a similar fashion, then, should the amendment to § 703.4, prohibited activites regarding investments and deposits, specifically apply to employees responsible for making credit union investments and deposits even though they may not be considered senior management employees? As another example, should employees responsible for the daily operations of a credit union's insurance and group purchasing activities be included in the prohibited fees section of Part 721 (§ 721.1(c)) if they are not senior management employees or make no decisions as to what types of services the credit union offers? Similar situations may also arise regarding CUSO's and fixed assets. The inclusion of specified positions in conjunction with the amendments now proposed would still narrow the applicability of the various sections since the current regulations apply to all employees. Comments are specifically requested in this area.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets). Further, these proposed rules relax certain prohibitions and limitations. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The proposed changes do not impose any additional paperwork requirements.

List of Subjects in 12 CFR Parts 701, 703, and 721

Credit unions, Senior management employees, Immediate family members.

By the National Credit Union Administration Board on July 15, 1987.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend its regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798.

2. Section 701.27 is amended by revising paragraph (c)(3) and by adding paragraph (c)(5) to read as follows:

§ 701.27 Investments in and loans to credit union service organizations.

* * * * *

(c) * * *

(3) *Immediate family member* means a spouse or other family member living in the same household.

* * * * *

(5) *Senior management employee* means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

* * * * *

3. Section 701.27(d)(6) is amended by removing, in the first sentence after the words "officials of, or", the words "are employed by" and by inserting in lieu thereof the words "senior management employees of." The second sentence is amended by removing the word "employee" after the words "official or" and by inserting in lieu thereof the words "senior management employee."

4. Section 701.36 is amended by revising paragraphs (b)(6), and (e)(1)–(3) and by adding paragraph (b)(8) to read as follows:

§ 701.36 FCU ownership of fixed assets.

* * * * *

(b) * * *

(6) *Immediate family member* means a spouse or other family member living in the same household.

* * * * *

(8) *Senior management employee* means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

* * * * *

(e) * * *

(1) A director, member of the credit committee or supervisory committee, official, or senior management employee of the Federal credit union, or immediate family member of any such individual.

(2) A corporation in which any director, member of the credit committee or supervisory committee, official, or senior management employee, or immediate family member of any such individual, is an officer or director, or has a stock interest of 10 percent or more.

(3) A partnership in which any director, member of the credit committee or supervisory committee, official, or senior management employee, or immediate family member of any such individual is a general partner, or a limited partner with an interest of 10 percent or more.

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

5. The authority citation for Part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1766(a) and 1789(a)(11).

6. Section 703.2 is amended by revising paragraph (i), redesignating paragraphs (p), (q), (r), (s) and (t) as paragraphs (q), (r), (s), (t) and (u) and by adding a new paragraph (p) as follows:

§ 703.2 Definitions.

* * * * *

(i) *Immediate family member* means a spouse or other family member living in the same household.

* * * * *

(p) *Senior management employee* means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

* * * * *

§ 703.4 [Amended]

7. Section 703.4(e) is amended by adding after the words "committee members and", the words "senior management."

PART 721—FEDERAL CREDIT UNION INSURANCE AND GROUP PURCHASING ACTIVITIES

8. The authority citation for Part 721 is revised to read as follows:

Authority: 12 U.S.C. 1757(16), 1766 and 1789.

9. Section 721.2 is amended by revising paragraph (c) to read as follows:

§ 721.2 Reimbursement.

* * * * *

(c) No director, committee member, or senior management employee of a Federal credit union or any immediate family member of any such individual may receive any compensation or benefit, directly or indirectly, in conjuction with any activity under this regulation. For purposes of this section, "immediate family member" means a spouse or other family member living in the same household; and "senior management employee" means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

[FR Doc. 87-16939 Filed 7-28-87; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-86-AD]

Airworthiness Directives: British Aerospace Model BAe-146 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to certain British Aerospace Model BAe-146 airplanes, which would require modification of the Direct Current (DC) electrical distribution control system. This action is prompted by a report of an unanticipated failure mode of the DC busbar system, which resulted in the discharge of the battery without warning, and subsequent loss of both the Essential DC and Emergency DC busbars.

DATES: Comments must be received no later than September 18, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-86-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket 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 action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-86-AD, 17900 Pacific

Highway South, C-68966, Seattle, Washington 98168.

Discussion

The British Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on British Aerospace Model BAe-146 airplanes. An incident was reported where the battery discharged without warning, causing the loss of both the Essential DC and Emergency DC busbars. It was determined that the auto cutout control allowed the Emergency DC bus to backfeed the Essential DC bus by the battery when the DC bus tie contactor was closed. Once the battery was depleted, power to the Essential DC and Emergency DC busbars was lost. British Aerospace issued BAe-146 Service Bulletin 24-30-00757A, Revision 1, dated September 5, 1986, which describes modification of the DC power distribution by deleting 2 wires and adding 3 wires to the auto cutout control. The CAA classified the service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom, 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 these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require modification of the DC power distribution in accordance with the service bulletin previously mentioned.

It is estimated that 15 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. The estimated cost for parts is $75 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,725.

For the reasons discussed above, the FAA has determined that this document (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation 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, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($115). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

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:

British Aerospace (BAe): Applies to Model BAe-146 series airplanes listed in BAe Service Bulletin 24-30-00757A, Revision 1, dated September 5, 1986, certificated in any category. Compliance is required within 6 months after the effective date of this AD, unless previously accomplished.

To prevent battery depletion and subsequent loss of Essential DC and Emergency DC busbars accomplish the following:

A. Modify the DC power distribution in accordance with British Aerospace BAe-146 Aircraft Modification Service Bulletin 24-30-00757A, Revision 1, dated September 5, 1986.

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

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to British Aerospace Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 21, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-17097 Filed 7-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-82-AD]

Airworthiness Directives: British Aerospace Viscount Model 700, 800, and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to all Viscount Model 700, 800, and 810 series airplanes, that would require eddy current and visual inspections of the rib and wing upper surface at wing station 257. This proposal is prompted by three reports of cracks. This problem has been attributed to fatigue cracking. This condition, if not corrected, could result in failure of the wing.

DATES: Comments must be received no later than August 19, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-82-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such

written data, views, or arguments as they may desire. Communications should identify the regulatory docket 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 action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-82-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA), which is the airworthiness authority of Great Britain, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of fatigue cracks found in the wing upper surface on Viscount Model 700/800/810 series airplanes.

There have been three reports of cracks, due to fatigue, initiating from the rearmost vertical bolt hole associated with the attachment of the outboard engine top nacelle fitting. These cracks, if allowed to propagate, could result in failure of the wing.

British Aerospace (BAe) issued Alert Preliminary Technical Leaflets (PTL) 316 and 185, Issues 1, both dated October 23, 1986, which describe procedures for inspection for cracks of the wing on all Viscount 700/800/810 series airplanes. The CAA has classified these PTL's as mandatory.

This airplane model is manufactured in the United Kingdom 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 condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require eddy current and visual inspections of the wing in accordance with the British Aerospace Alert PTL's previously mentioned. The eddy current inspections may be deferred if a specified rib modification is performed. Any cracks found would be required to be repaired before further flight in a manner approved by the FAA.

It is estimated that 12 airplanes of U.S. registry would be affected by this AD, that it would take approximately 60 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $28,800.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation 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, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($2,400). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

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:

British Aerospace: Applies to all Model Viscount 700/800/810 series airplanes which have accumulated more than 10,000 landings, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the wing due to cracking, accomplish the following:

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

1. Visually inspect the wing upper surface and end rib in accordance with applicable British Aerospace Preliminary Technical Leaflet No. 185 or No. 316, both dated October 23, 1986. Repeat this inspection at intervals not to exceed 25 landings.

2. Eddy current inspect the wing in accordance with applicable British Aerospace Preliminary Technical Leaflet No. 185 or No. 316, both dated October 23, 1986. Repeat this inspection at intervals not to exceed 1,500 landings.

B. Any cracks found as a result of the inspections required by paragraph A., above, must be repaired prior to further flight in a manner approved by the FAA.

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

D. Eddy current inspections may be deferred for 15,000 landings after incorporation of Modification D3292 or Modification FG2172, as applicable.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 21, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-17100 Filed 7-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket Number 87-ANE-23]

Airworthiness Directives; Pratt & Whitney (PW) JT8D-209, 217, -217A, -217C, and -219 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would require initial and repetitive inspection of low pressure turbine (LPT) third stage vane anti-rotation pins and modification of the LPT case assembly on certain PW JT8D-200 series engines. The proposed AD is needed to detect fractured anti-rotation pins which could result in turbine vane rotation and subsequent uncontained engine failures.

DATES: Comments must be received on or before September 22, 1987.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 87–ANE–23, 12 New England Executive Park, Burlington, Massachusetts 01803 or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 87–ANE–23".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service bulletins (SB's) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457.

A copy of the SB's is contained in Rules Docket Number 87–ANE–23, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Jim Jones, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7121.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 87–ANE–23". The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that fracture of all LPT third stage vane anti-rotation pins on JT8D–200 series engines can result in rotation of the vane clusters, severing of the rear turbine case, liberation of the vane clusters and penetration of the engine cowl. Investigation and analysis have indicated that creep of the anti-rotation pin material combined with vane twist due to thermal transients can result in anti-rotation pin fracture. There have been three events where fracture of all of the LPT third stage vane anti-rotation pins caused engine failures. Two of the failures were uncontained, one of which caused engine cowl damage.

A new anti-rotation pin design with a higher strength material and a modification of the LPT case assembly has been developed by the manufacturer.

The proposed AD would require initial and repetitive radiographic isotope inspection of LPT third stage vane anti-rotation pins and modification of the LPT case assembly on JT8D–209, –217, –217A, –217C, and –219 turbofan engines.

This proposed AD would also require reporting of the inspection results to the FAA. Those findings will be evaluated to determine if they are consistent with the engineering analysis upon which the AD is founded, or whether further inspections or other actions are needed.

Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require initial and repetitive radiographic isotope inspection of LPT third stage vane anti-rotation pins in accordance with PW Alert Service Bulletin 5753, Revision 1, dated July 24, 1987. The proposed AD would also require modification of the LPT case assembly at the next LPT module disassembly in accordance with PW Service Bulletin (SB) 5751, dated June 15, 1987.

Conclusion

The FAA has determined that this proposed regulation involves approximately 500 (domestic) PW JT8D–200 series engines at an approximate cost of 1.5 million dollars for the first year. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since this proposed regulation affects only operators using aircraft in which JT8D–200 series engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT**".

List of Subjects in 14 CFR Part 39

Engines, Air Transportation, Aircraft, Aviation Safety, Incorporation by Reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (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 11.85.

§ 39.13 [Amended]

2. By adding to Section 39.13 the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D–209, –217, –217A, –217C, and –219 turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent low pressure turbine (LPT) case penetration as a result of anti-rotation pin failures, accomplish the following:

(a) Radiographic isotope inspect LPT modules installed in JT8D–200 series turbofan engines that incorporate Tinidur (AMS 5637.) anti-rotation pins. Engines with new or refurbished (in accordance with the Accomplishment Instructions of paragraph 2.A.(2)(a) of PW SB 5751, dated June 15, 1987) LPT case assemblies that have incorporated PW SB 5711, Revision Number 3, dated April 1, 1987 and have been concurrently assembled with new LPT third stage vane antirotation pins (Tinidur or Inco 901) are not required to meet the initial and repetitive inspection requirements of this paragraph. Engines requiring the inspection must be inspected in accordance with the Accomplishment Instructions contained in PW Alert Service Bulletin (ASB) 5753, Revision Number 1, dated July 24, 1987, in accordance with the following schedule:

(1) PW JT8D–209 engines with 9,300 total cycles in service (CIS) or more on the effective date of this AD; inspect within 2,500 CIS from the effective date of this AD. Thereafter, reinspect in accordance with the requirements of the table below.

(2) PW JT8D–209 engines with less than 9,300 total CIS on the effective date of this AD; inspect before the accumulation of 9,300 total CIS, or within 2,500 CIS from the effective date of this AD, whichever occurs later. Thereafter, reinspect in accordance with the requirements of the table below.

(3) PW JT8D–217 engines with 7,300 total CIS or more on the effective date of this AD; inspect within 700 CIS from the effective date of this AD. Thereafter, reinspect in accordance with the requirements of the table below.

(4) PW JT8D–217 engines with less than 7,300 total CIS on the effective date of this AD; inspect before the accumulation of 7,300 total CIS, or within 700 CIS from the effective date of this AD, whichever occurs later. Thereafter, reinspect in accordance with the requirements of the table below.

(5) PW JT8D–217A engines with 3,300 total CIS or more on the effective date of this AD; inspect within 900 CIS from the effective date of this AD. Thereafter, reinspect in accordance with the requirements of the table below.

(6) PW JT8D–217A engines with less than 3,300 total CIS on the effective date of this AD; inspect before the accumulation of 3,300 total CIS, or within 900 CIS from the effective date of this AD, whichever occurs later. Thereafter, reinspect in accordance with the requirements of the table below.

(7) PW JT8D–217C/–219 engines with 4,200 total CIS or more on the effective date of this AD; inspect within 1,000 cycles from the effective date of this AD. Thereafter, reinspect in accordance with the requirements of the table below.

(8) PW JT8D–217C/–219 engines with less than 4,200 total CIS on the effective date of this AD; inspect before the accumulation of 4,200 total CIS, or within 1,000 CIS from the effective date of this AD, whichever occurs later. Thereafter, reinspect in accordance with the requirements of the table below.

THIRD STAGE ANTI-ROTATION PIN REINSPECTION TABLE

Number of fractured, missing, or bent pins	Maximum CIS until reinspection	
	JT8D–209	JT8D–217/ 217A/ 217C/219
0	7,000	1,700
1	6,640	1,610
2	6,280	1,525
3	5,920	1,440
4	5,560	1,350
5	5,200	1,265
6	4,840	1,180
7	4,480	1,090
8	4,120	1,005
9	3,760	920
10	3,400	830
11	3,040	745
12	2,680	660
13	2,320	570
14	1,960	485
15	1,600	400

(b) Remove from service prior to further flight, PW JT8D–209, –217, –217A, –217C, and –219 engines with 44 fractured, missing, or bent LPT third stage vane anti-rotation pins found during the inspection of paragraph (a) above.

(c) Remove from service within 10 CIS, PW JT8D–209, –217, –217A, –217C, and –219 engines with 16 or more but less than 44 fractured, missing or bent LPT third stage vane anti-rotation pins, found during the inspection of paragraph (a) above.

(d) Modify prior to return to service, in accordance with the Accomplishment Instructions of PW SB 5751 dated June 15, 1987, those engines removed from service in accordance with paragraphs (b) and (c) above.

(e) Modify prior to return to service, in accordance with the Accomplishment Instructions of PW SB 5751, dated June 15, 1987, PW JT8D–209, –217, –217A, –217C, and –219 engines inspected in accordance with paragraph (a) above at an engine shop visit, and found with 15 or more fractured, missing, or bent LPT third stage vane anti-rotation pins.

(f) Modify PW JT8D–209, –217, –217A, –217C, and –219 engine LPT modules (including LPT modules from those engines referred to in paragraph (a) that were not required to meet the initial and repetitive inspection requirements) at the next LPT module disassembly after the effective date of this AD in accordance with the Accomplishment Instructions of PW SB 5751, dated June 15, 1987.

(g) Report the following information in writing within 30 days from the date of the inspection to the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Telex Number 949301 FAANE BURL:

(1) Inspection date.

(2) Engine serial number (S/N).

(3) LPT module S/N.

(4) Engine total time and cycles (if estimate, so note).

(5) LPT module total time and cycles (if estimate, so note).

(6) Number of third stage pins:

(i) Fractured.

(ii) Missing.

(iii) Bent.

Notes.—(1) For the purpose of this AD, LPT module disassembly occurs when the LPT rotor is separated from the LPT case and vane assembly.

(2) Shop visit is defined as the input of an engine to a repair shop where the subsequent engine maintenance entails:

(a) Separation of a major engine flange (lettered or numbered) other than flanges mating with major sections of the nacelle or reverser. Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "shop visit."

(b) Removal of a disk, hub, or spool.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance times specified in this AD.

Should this proposed rule be adopted, the FAA will request the approval of the **Federal Register** to incorporate by reference the manufacturer's service bulletins identified and described in this document.

Issued in Burlington, Massachusetts, July 16, 1987.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 87–17104 Filed 7–28–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–89–AD]

Airworthiness Directives: Short Brothers PLC, Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to certain Short Brothers Model SD3–60 series airplanes, that would require removal or modification of the left-hand garment bag stowage unit introduced by Modification 7063. The stowage unit extends into the aisle and, if not corrected, could be an impediment to evacuation during an emergency.

DATES: Comments must be received no later than September 18, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–89–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Short Brothers PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization

Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket 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 action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-89-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain Short Brothers PLC, Model SD3-60 airplanes. The introduction of a left-hand garment bag stowage unit (Modification 7063) reduces the aisle width from 20 inches to 19 inches between the rear row of seats and the aft exits. This reduction in aisle width could hinder or restrict evacuation in the event of an emergency. Modification 7063, does not meet width of aisle requirements as defined by FAA Part 25.815 and British Civil Air Regulations (BCAR) D4-3.

Short Brothers has issued two service bulletins which address this unsafe condition: Service Bulletin SD360-25-34, dated December 1986, describes procedures for removal of the stowage unit; the CAA has declared this service bulletin as mandatory. Service Bulletin SD360-25-35, dated March 1987, describes a modification to the left-hand garment bag stowage that reduces the size of the garment bag stowage unit; this reduction permits the aisle width to remain at 20 inches, which allows sufficient room to evacuate the airplane.

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

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require removal or modification of the left-hand garment bag stowage, Modification 7063, in accordance with a previously mentioned service bulletin.

It is estimated that 34 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,720.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation 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, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($80). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

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:

Short Brothers PLC: Applies to Model SD3-60 airplanes equipped with a lefthand garment bag stowage unit (Modification 7063), certificated in any category. Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To remove a restriction to aisle width, due to the left-hand garment bag stowage unit, accomplish the following:

A. Remove the left-hand garment bag stowage unit, in accordance with Short Brothers, Service Bulletin SD360-25-34, dated December 1986, or modify the left-hand garment bag stowage unit, in accordance with Short Brothers Service Bulletin SD360-25-35, dated March 1987.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Short Brothers PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 21, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-17101 Filed 7-28-87; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Minimum Financial and Related Requirements for Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend its rules relating to minimum financial requirements for futures commission

merchants ("FCMs"). The proposed new rule would clarify the requirements for and the treatment of a guaranteed account. The Commission also is proposing a uniform format for guarantee agreements. The Commission believes that this rule would simply mandate prudent business practices and codify existing interpretations relating to guaranteed accounts.

DATE: Comments must be received on or before September 28, 1987.

ADDRESS: Comments must be sent to: Commodity Futures Trading Commission, Secretariat's Office, 2033 K St., NW., Washington, DC 20581. Reference should be made to Proposed Rule 1.64.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, staff attorney or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets at the above address. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 5, 1985, the Commission published proposed amendments to the minimum and related requirements for futures commission merchants ("FCMs") and introducing brokers (50 FR 31612). These proposals, which resulted from a Commission authorized staff review of possible improvements to the Commission's financial integrity rules, were the subject of extensive public comment.[1] Due to the complexity of the issues raised by that initial proposal, the need to consider carefully the various alternatives suggested by commenters and the subsequent adoption by Congress of legislation concerning the treatment of government securities, the Commission has now determined to address separately the rules initially proposed in 1985. Accordingly, this **Federal Register** release discusses solely proposed rule 1.64 concerning the treatment of guaranteed accounts by FCMs.

II. Proposed Rule 1.64

A. Initial Proposal

In proposed rule 1.64, the Commission had proposed that an FCM could not consider an account to be guaranteed unless a written guarantee agreement governing such an account is filed with the FCM, together with an opinion of counsel stating that the guarantee agreement is sufficient to be a binding guarantee under applicable local law. *See* 50 FR 31612, 31619 (August 5, 1985). The proposed rule also provided that if a guaranteed account becomes undermargined, the existence of a guarantee agreement, standing alone, would not be sufficient to alleviate the guaranteed account's undermargined status. Such an account's undermargined status could only be alleviated by accruals on, or a reduction of, open positions, or by the deposit of additional funds. The rule also provided that if the FCM had prior written authorization of the guarantor, and there was sufficient excess margin in the guarantor's account, the FCM could transfer funds from the guarantor's account to the guaranteed account. Unless and until any of those actions were taken, however, the guaranteed account would remain undermargined. There would be similar treatment if a guaranteed account were in debit or deficit status.

Certain commenters supported aspects of this proposal, even if they had specific objections, and one firm indicated that it was already in compliance with what was being proposed. The main concern with the proposal was that FCMs would have the additional expense of obtaining an opinion of counsel for all guarantee agreements, even though this would not assure the legality of the agreements. (The commenters included sole FCMs, FCM/broker-dealers, contract markets, a trade association and an accounting firm.) Numerous commenters also stated that adverse tax consequences could result; that is, that potentially a gift tax could be applied to the transfer of funds from the guarantor. Commenters also were concerned with the operational problem of accounting for ownership of funds which had been transferred, claiming that this would require an FCM to maintain a subsidiary bookkeeping system which would create unnecessary complexity and the opportunity for errors to be made. Several commenters noted that this could be further complicated if there were multiple guarantors of the same account, and one commenter wondered whether funds would be transferred back to the guarantor if the guaranteed account were restored to financial health. Certain commenters stated that an FCM should have wider discretion with respect to guaranteed accounts as to whether an opinion of counsel is needed and whether it is necessary to transfer funds from the guarantor.

In the December comment period extension notice (50 FR 49859 (December 5, 1985)), the Commission indicated that there may be merit to the suggested alternatives to the guaranteed accounts proposal that an escrow-type account be established for use by a guarantor for its guaranteed accounts to eliminate the need for transferring funds and that a uniform guarantee agreement be developed that would be legally valid in all jurisdictions to eliminate the need for opinions of counsel. Several FCM/broker-dealers, a sole FCM, two contract markets, two trade associations, and an accounting firm supported these alternatives. One other alternative raised by a commenter would allow excess funds in the guarantor's account to cover a debit or deficit in a guaranteed account for five days without requiring a transfer of funds.

B. Current Proposal

In response to these comments, the Commission has determined to propose different procedures from those described in its original rule proposal. First, in order to alleviate the requirement of and expense of obtaining an opinion of counsel concerning the validity of the guarantee agreement, the Commission is proposing to adopt as an Appendix to Part 1 of its regulations, a model guarantee agreement that contains, among other items, a provision which waives any defense to the effectiveness of the agreement.[2] The model guarantee agreement was drafted to operate as a limited guarantee covered only by the excess net equity in a guarantor's account. Parties will remain free, of course, to tailor the specific extent of the guarantee as they deem appropriate.

Second, upon due consideration of the comments, the Commission believes that it can eliminate the requirement that excess net equity in a guarantor's account must, in the first instance, always be actually transferred to an undermargined guaranteed account. In lieu thereof, proposed Rule 1.64 would permit the FCM, in its discretion, either to treat the excess net equity in a guarantor's account as covering an undermargined amount or to transfer funds from the guarantor's account to the guaranteed account. By allowing the

[1] In response to requests by several contract markets, an industry trade association and on the Commission's own initiative, the Commission subsequently extended the comment period on the proposal. *See* 51 FR 7285 (March 3, 1986), 50 FR 49859 (Dec. 5, 1985), 50 FR 45831 (November 4, 1985) and 50 FR 39133 (Sept. 27, 1985). The Commission noted that it did not foreclose the possiblity of treating each of the various financial rule proposals separately, or from determining based upon all comments submitted that two or more of the proposed rules may be considered together.

[2] Such a provision waiving defenses would eliminate litigation, expense and delays in the event of bankruptcy. *See e.g.*, Notz v. Berg, No. 86 C 4036, (N.D. Ill. Dec. 31, 1986) (memorandum opinion and order) (guaranty agreement held valid and enforceable under the Commodity Exchange Act).

FCM to treat a guarantor's excess net equity as meeting the margin requirements of a guaranteed account, the Commission believes that the additional expenses, operational problems and possible gift tax consequences noted by the commenters can be eliminated or alleviated, without compromising the firm's financial exposure. The reproposed rule would still, however, require an actual transfer of funds from the guarantor's account to the guaranteed account to alleviate a debit or deficit status in the guranteed account. The Commission specifically requests comment as to whether an alternative procedure could be developed with respect to guranteed accounts in a debit or deficit status, such as transfer to a separate account under the FCM's control.

The Commission recognizes that, by its very nature, a guarantee agreement is a consensual document. Thus, in specific instances, the model agreement drafted by the Commission may not address the particular needs of individual FCMs and guarantors. One response to this has been incorporated into the model agreement—a statement that parties may include additional provisions as they deem to be necessary which are not generally inconsistent with a continuing guarantee which is valid until expressly revoked as provided therein as against the guarantor notwithstanding the insolvency or change in condition of the account guaranteed or the carrier thereof. The Commission requests comments on whether such a guarantee agreement would be generally honored under local law.

The Commission also requests comment on whether an actual transfer of funds should be required to cover undermargined accounts after some grace period to prevent disputes and attendant potential litigation as to the validity of such agreements which can be viewed as contingent obligations at the point when their use would be needed to assure the appropriate distribution of available funds among customers. Commenters should also address any adverse capital consequences of permitting such guarantees without attendant transfers of funds, whether funds need only be transferred if an actual deficit occurs, and how the accounting for and compliance with the guarantee procedures suggested would be capable of being obtained.

III. Other Matters

A. Regulatory Flexibility Act

The new rules and rule amendments proposed herein would affect principally FCMs and contract markets. The Commission has determined previously that FCMs and contract markets are not "small entities" for purposes of the Regulatory Flexibility Act ("RFA") (5 U.S.C. 601 *et seq.* (1982)) and that the requirements of the RFA do not, therefore, apply to FCMs and contract markets. 47 FR 18618 (April 30, 1982).

Accordingly, pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman hereby certifies, on behalf of the Commission, that the proposed new rule and Appendix contained in this proposal will not, if adopted, have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.* (1982), imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA, such as reporting or recordkeeping requirements. In compliance with the PRA, the Commission has submitted this proposed rule and its associated information collection requirements to the Office of Management and Budget ("OMB").

Proposed Rule 1.64 was previously proposed (50 FR 31612, August 5, 1985) and submitted to OMB. Due to revisions to that submission, the Commission is now reproposing this rule.

Persons wishing to comment on the information which would be required by this proposed rule should contact Bob Neal, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in Part 17 CFR Part 1

Futures commission merchants, Guaranteed accounts, Guarantee agreements, Minimum financial requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 4f, 4g and 8a thereof, 7 U.S.C. 6c, 6f, 6g and 12a, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: Sections 2(a)(1), 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 5, 5a, 6(a), 6(b), 6b, 6c, 8, 8a, 8c, 12, 15, 17 and 20 of the Commodity Exchange Act, 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21 and 24.

2. A new § 1.64 is proposed to be added to read as follows:

§ 1.64 Guaranteed accounts.

(a) No account carried by a futures commission merchant shall be considered guaranteed by anyone other than the beneficial owner of such an account unless a written guarantee agreement governing such an account is filed with the futures commission merchant. Such written guarantee agreement must be substantially in the form of the agreement included as Appendix C to Part 1 of these regulations.

(b) If a guaranteed account becomes undermargined, the undermargined status can only be alleviated by accruals on open positions, by a reduction of open positions, by the existence of sufficient excess net equity in the guarantor's account, or by the deposit of additional funds, which can include, with prior written authorization of the guarantor and sufficient excess net equity in the guarantor's account, a transfer of funds from the guarantor's account to the guaranteed account.

(c) If a guaranteed account contains a ledger balance and open trades, the combination of which liquidates to a deficit, or contains a debit ledger balance only, the existence of a guarantee agreement, as described in paragraph (a) of this section, does not constitute security for such deficit or debit ledger balance for purposes of § 1.17(c)(2)(i). Without prior written authorization of the guarantor other than this guarantee agreement and sufficient excess net equity in the guarantor's account, the futures commission merchant may transfer funds from the guarantor's account to

the guaranteed account to alleviate the deficit or debit ledger balance.

3. A new Appendix C is proposed to be added to Part 1 of the Commission's regulations to read as follows:

Appendix C—Model Account Guaranty Form

Continuing Guaranty for Payment of Account Obligations

In consideration of [FCM's full name] ("FCM") accepting, at the request of [guarantor customer's name] ("Guarantor"), the commodity trading account(s) of [guaranteed customer name], Guarantor and FCM agree as follows:

1. Undertaking of Guarantor

[Guarantor] promises to pay immediately to FCM, under conditions described below, funds equal to the full amount of all outstanding commodity interest obligations arising out of the following accounts of [Guaranteed customer's name] ("Guaranteed Accounts"):

Guaranteed account name	Identification No.[1]
.....	.....
.....	.....
.....	.....

[1]Insert name & identification number if then known, otherwise attach as schedule "A" and insert *See Schedule "A"*.

2. Continuing Guarantee

Guarantor agrees that this is a continuing guaranty of all commodity interest obligations arising from the Guaranteed Account(s) up to $———— which shall continue in full force and effect until expressly revoked in writing as described below.

3. Payment-Authorization to Withdraw & Transfer Account Funds

a. The following accounts are Guarantor Accounts:

Name of account	Identification No.	Limit (in dollars)
[Guarantor customer's name]:		
.....	.....	$
.....	.....	$
.....	.....	$

b. The term "Excess Net Equity" shall mean the amount of equity, cash, securities or other customer property on deposit in the Guarantor Account(s) which is in excess of any amount owed to the FCM by the Guarantor.

c. If [*guaranteed account customer*] does not fully pay any obligation arising out of the Guaranteed Account(s) when demanded by FCM, Guarantor unconditionally authorizes FCM, irrespective of any change in condition of the [guaranteed account customer], at FCM's discretion either to treat such Excess Net Equity as meeting the obligation of the Guaranteed Account or to withdraw such Excess Net Equity from the Guarantor Account(s) to the extent of such unpaid obligation and to deposit such funds in the Guaranteed Account(s).

4. Default by FCM

In the event of a default, insolvency or bankruptcy of the FCM, Guarantor agrees and acknowledges that the duly appointed court receiver or trustee in bankruptcy or any interim trustee unconditionally may withdraw from the Guarantor Account(s), and deposit into the Guaranteed Account(s), any Excess Net Equity to pay any outstanding obligation of the Guaranteed Account(s). Guarantor hereby waives any right of demand or notice by such receiver, a trustee or interim trustee, any claim contesting the authority to order such withdrawal and deposit, and any claim or defense that this Agreement is invalid.

In the event of a transfer of accounts pursuant to § 1.17(a)(4), a self-regulatory organization may call the guarantee if the transferor FCM carrying the guaranteed account refuses. If so, the self-regulatory organization will be treated for all purposes hereof as if it were a successor of the FCM.

5. Treatment of Payments

Guarantor agrees that upon the rightful withdrawal and deposit of funds pursuant to paragraphs (3) or (4), FCM (or a receiver, trustee or interim trustee) may treat such funds as property of the [*guaranteed account customer*]. Guarantor further agrees to waive any property claim against the FCM (or any successor in interest of the FCM, or any receiver, trustee or bankruptcy trustee) arising from such funds to the extent such funds are actually applied to satisfy a deficit or undermargined amount in the guaranteed accounts.

6. Revocation

This guaranty will be revoked 24 hours after the actual receipt by FCM during business hours of Guarantor's written notice of revocation except as to amounts already committed or transferred prior thereto.

7. Waiver of Notice and Defenses

Guarantor hereby waives notice of acceptance of this guarantee, all defenses to the effectiveness of this agreement as well as any notice or demand other than expressly provided for in this agreement. [Parties may include additional provisions not inconsistent herewith as deemed necessary such as, but not limited to, clauses concerning assignment, limitations of liability, resolution of disputes, attorney's fees, etc.]

Dated ————, 19——

Guarantor

Guarantor's Address

FCM

FCM's Address

Note.—All signatures must be duly notarized by a licensed notary public. Persons signing agreement must have the legal authority to bind the Guarantor. If the Guarantor is a corporation, such authority must be documented by a certified resolution of its board of directors.

Issued by the Commission on July 23, 1987, in Washington, DC.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-17130 Filed 7-28-87; 8:45 am]

BILLING CODE 6351-01-M

17 CFR Part 1

Fees for Rule Enforcement and Financial Reviews

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commission periodically reviews the fees contained in its regulations in order to adjust fees to reflect current cost data. The staff has recently reviewed the Commission's actual costs for Rule Enforcement and Financial Reviews and has determined that the formula for fees for this service should be changed so that the fee for each exchange is a percentage of the actual three-year average annual cost of reviewing the exchange.

DATES: Comment Deadline: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone number 202-254-6090.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Futures Trading Act of 1982 (Pub. L. 97-444, 96 Stat. 2294, 2326, January 11, 1983) amended Section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) to add specific authority for the Commission.

to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and

activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act: *Provided*, That the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.

The Conference Report accompanying the legislation (H.R. Rep. No. 964, 97th Cong. 2d Sess. 57 (1982)) states that "the conferees intend that the fee schedule addressed by the Conference substitute be strictly limited to Commission activities directly related to" eight enumerated Commission functions including "contract market and registered futures association rule enforcement reviews and financial reviews."

On January 8, 1985, the Commission promulgated a final schedule of fees for contract market and rule enforcement reviews. 50 FR 928. Under this schedule, the fee for each exchange has been based on both the trading volume of the exchange and the number of contracts traded on the exchange. In developing the schedule of fees, the Commission prospectively estimated that both of these factors had a direct effect on the amount of time Commission staff spent conducting reviews of each exchange. 49 FR 22827, 22828 (June 1, 1984).

Now that the Commission has had several years of experience with this fee schedule, it has determined that the existing formula is not reflecting actual review costs as accurately as had been expected. In particular, although no exchange has been charged more than its average annual cost of being reviewed by the Commission, the larger exchanges have been bearing an unexpectedly large percentage of the total fees charged each year in comparison to the actual distribution of the Commission's review costs. Also, the Commission's total fee recovery, expressed as a percentage of actual review costs, has fallen significantly each year. In FY 1985, the Commission recovered 69% of its actual costs, but this figure fell to 64% in FY 1986, and, under the current formula, would be only 53% in FY 1987.

In light of these developments, the Commission is now proposing to revise the formula by which the annual rule enforcement review and financial review fee is computed. Specifically, the Commission proposes to adopt the suggestion of some of the commenters on its original fee proposal and base the fee for each exchange on the actual Commission review costs incurred with respect to that exchange. 50 FR 929 (January 8, 1985).

The fee would still be based on the Commission's actual average annual review costs over a three-year period. However, the fee for each exchange would be a flat percentage of these review costs and would not directly depend on the volume or number of contracts traded on the exchange. A 65% figure has been selected to keep total recovery under the new formula equivalent, in percentage terms, to the recovery in FY 1985 and FY 1986.

II. Computation of Fees

In calculating the actual cost of rule enforcement and financial reviews, the Commission first determines personnel costs by extracting data from the agency's Budget Account Code (BAC) system. Employees of the Commission record the time spent on rule enforcement and financial reviews under the BAC system. The Commission then adds an overhead factor for benefits, including retirement, insurance and leave, based on a government-wide standard, and an overhead factor for general and administrative costs, such as space, equipmnent and utilities. The overhead figure is derived by computing the percentage of Commission appropriations spent on these non-personnel items.

As noted in its last review of actual costs (*see* 51 FR 21149, June 11, 1986), the Commission applied a total overhead factor of 45% to costs incurred through FY 1984. Subsequently, the overhead factor was changed in accordance with OMB Circular A–76. Therefore, for the purpose of calculating the FY 1987 fees, a 45% overhead factor is applied to personnel costs for FY 1984, whereas for the FY 1985 and FY 1986 personnel costs, 98% and 104% overhead factors are applied, respectively.

The FY 1985 overhead factor consists of 55% for government-wide benefits and leave and 43% for CFTC non-personnel costs. In FY 1986, these calculations were 55% and 49%. The Commission anticipates minor annual fluctuations in its overhead calculations, due to changes in government-wide benefits and in the percentage of Commission appropriations applied to non-personnel costs from year to year.

Once the total personnel costs and overhead for reviewing each exchange have been determined, the costs for FY 1984, FY 1985 and FY 1986 are averaged to calculate the average annual cost for reviewing each exchange over the three-year period.[1] Under the proposed rule, this figure is then multiplied by 65% and rounded to the nearest multiple of $100 to arrive at the proposed fee for each exchange.

The cost and fee information for each exchange follows:

	Actual avg. costs FY 1984–FY 1986	FY 1987 fee under current rule	FY 1987 fee under proposed rule
Chicago Board of Trade [1]	$166,592	$166,000	$108,300
Chicago Mercantile Exchange	153,828	104,000	100,000
Commodity Exchange, Inc	76,932	35,000	50,000
Coffee, Sugar & Cocoa Exchange	58,767	18,000	38,200
New York Mercantile Exchange	84,576	22,000	55,000
New York Cotton Exchange	80,454	14,000	52,300
Kansas City Board of Trade	43,017	11,000	28,000
New York Futures Exchange	55,243	12,000	35,900
Minneapolis Grain Exchange	30,820	8,000	20,000
Philadelphia Board of Trade	2,034	5,000	1,300
Amex Commodities Corp	4,399	5,000	2,900
Total	$756,663	$400,000 (53%)	$491,900 (65%)

[1] The Chicago Board of Trade, the MidAmerican Exchange and the Chicago Rice and Cotton Exchange are combined solely for the purpose of determining the amount of rule enforcement review fees.

III. Regulatory Flexibility Act

The changes proposed in this release affect contract markets (also referred to as "exchanges"). The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 47 FR 18618 (April 30, 1982). Therefore, the requirements of the Regulatory Flexibility Act do not apply to contract markets. Accordingly, the Chairman, on behalf of the Commission, certifies that the fees proposed herein do not have a

[1] It should be noted that some variations in fees from one year to the next may occur due to the timing of full scope versus limited scope audits. The Commission may consider using four-year averages in the future in order to minimize fluctuations in fees from year to year.

significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 1

Contract market rule reviews, contract market financial reviews, Fees.

For the reasons set out in the preamble, Title 17, Part 1, Appendix B, is proposed to be amended as set forth below.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21 and 24 unless otherwise noted.

2. Paragraph (b) of Appendix B is revised to read as follows:

Appendix B—Fees for Contract Market Rule Enforcement Reviews and Financial Reviews

* * * * *

(b) The Commission shall compute the annual fee for each board of trade by computing the actual average annual cost to the Commission of conducting rule enforcement and financial reviews of that board of trade over the preceding three fiscal years, then multiplying that amount by 65% and rounding to the nearest multiple of $100.

* * * * *

Issued in Washington, DC on July 23, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–17197 Filed 7–28–87; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 17, 19, 170, 194, and 197

[Notice No. 634]

Taxpaid Distilled Spirits Used in Manufacturing Products Unfit for Beverage Use

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) proposes amendment and recodification of regulations on taxpaid distilled spirits used to manufacture nonbeverage products. The regulations in 27 CFR Part 197 (Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products) are proposed to be recodified as a new part, designated 27 CFR Part 17. In conjunction with the recodification, a number of changes to the drawback regulations are proposed. The regulations in 27 CFR Part 170, Subpart U (Manufacture and Sale of Certain Compounds, Preparations, and Products Containing Alcohol) are proposed to be distributed between Part 19 and the new Part 17. Minor conforming amendments would be required in 27 CFR Part 194. Significant changes from current regulations are discussed below under "SUPPLEMENTARY INFORMATION."

DATES: Comment date: Comments must be submitted on or before October 27, 1987.

ADDRESS: Please submit all comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, Attention: C:R:F.

Copies of the proposed regulations and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4406, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven C. Simon, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Room 6237, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Significant Changes

Adoption of Rulings. The holdings of current Revenue Rulings and ATF Rulings are reflected in the proposed regulations, as follows: Rev. Rul. 55–689, 1955–2 CB 729 (§ 17.187); Rev. Rul. 56–239, 1956–1 CB 715 (§ 17.135); Rev. Rul. 56–314, 1956–2 CB 1023 (§ 17.137); Rev. Rul. 56–335, 1956–2 CB 1024 (§ 17.181); Rev. Rul. 56–336, 1956–2 CB 1023 (§ 17.182); Rev. Rul. 56–367, 1956–2 CB 1026 (§ 17.135(b)(2)); Rev. Rul. 56–394, 1956–2 CB 1021 (§ 17.152(c)); Rev. Rul. 56–395, 1956–2 CB 1025 (§ 17.186); Rev. Rul. 58–350, 1958–2 CB 974 (§ 17.136); Rev. Rul. 63–87, 1963–1 CB 384 (§§ 17.11: definition of "food products," and 17.133(c)); Rev. Rul. 69–138, 1969–1 CB 327 (§§ 17.126(b) and 17.152 (a), (c), and (d)); ATF Rul. 73–1, 1973 ATF CB 85 (§ 17.133(b)); ATF Rul. 74–2, 1974 ATF CB 27 (§ 17.76); ATF Rul. 76–17, 1976 ATF CB 85 (§§ 17.151 and 17.152(b)); ATF Rul. 76–19, 1976 ATF CB 86 (§§ 17.169 and 17.185); ATF Rul. 77–27, 1977 ATF CB 165 (§ 17.122); and ATF Rul. 82–7, 1982–2 QB 46 (§ 17.11: definition of "medicines").

Rev. Rul. 57–369, 1957–2 CB 948, will be adopted in the instructions to the revised ATF Form 5530.5 (formerly Form 1678). Rev. Rul. 58–317, 1958–1 CB 586, is not reflected in the proposed regulations, because it is obsolete, iso-alcoholic elixir having been removed from the National Formulary. Rev. Rul. 58–428, 1958–2 CB 975, is also not reflected in the proposed regulations, because the repeal of 26 U.S.C. 5082 has removed its authority. The holding of ATF Rul. 81–8, 1981–4 QB 24, is proposed to be modified in § 17.183 (see discussion below).

Form number changes. The prescribed form entitled "Formula and Process for Nonbeverage Products" is being revised and renumbered from 1678 to 5530.5. This will not require resubmission of any formulas previously approved on Form 1678. Similarly, the form number of the "Bond for Drawback Under 26 U.S.C. 5131" is being changed from 1730 to 5530.3, but this will not require resubmission of any bonds previously approved.

Alternate methods or procedures. A new section (§ 17.4) is proposed to be added to provide for the employment of alternate methods or procedures, if approved by the Director pursuant to a showing of good cause.

Delegations of authority. Authority to perform certain functions under Part 17 may be delegated from time to time by the Director, through delegation orders, to subordinate officials. This possibility is reflected in the definition of "Director" in § 17.11 by addition of the words "or his delegate." Further, the ATF Alcohol and Tobacco Laboratory is specified as the recipient of certain documents, such as formulas, in §§ 17.121, 17.122, 17.126, 17.131, 17.132, and 17.136. This will permit expeditious administration of regulations. Accordingly, a new definition of "Alcohol and Tobacco Laboratory," giving its address, is provided in § 17.11. The existing delegation, to the regional director (compliance), of authority to approve or disapprove claims is also codified in the new regulations (§ 17.142).

Public Law 96–598. Proposed regulations in this document would implement Section 6 of Pub. L. 96–598, 94 Stat. 3488, effective January 1, 1980, which added 26 U.S.C. 5010. This section of law allows distilled spirits tax credit for certain wines and flavors contained in a distilled spirits product. Pub. L. 96–598 affects manufacturers of nonbeverage products, because it requires a change in the method of calculating drawback on distilled spirits derived from wines and flavors.

Current regulations in §§ 197.5 (definition of "distilled spirits") and 197.105 (eligibility for drawback) specify that wine and flavors content are not distilled spirits and therefore are ineligible for drawback. To determine drawback under current regulations, it is necessary to know the percentage of the alcohol that is derived from wines or flavors (§ 197.130(e)).

Under Pub. L. 96–598, the presence of wine or flavors content alters the effective rate at which tax is to be paid. Under 26 U.S.C. 5134(a), the drawback rate is $1 less than the rate at which tax was paid or determined. Therefore, under Pub. L. 96–598, as implemented by these proposed regulations, knowledge of the effective rate at which tax was paid, taking into account the § 5010 credit, is necessary in order to determine the drawback rate. For distilled spirits containing no wine or flavors content, the effective tax rate would be the same as the rate specified in 26 U.S.C. 5001. Proposed sections affected by this change are: §§ 17.11 (definitions of "distilled spirits" and "effective tax rate"), 17.141, 17.146(a)(2) ("properly taxpaid," rather than "fully taxpaid" as in § 197.109(b)), 17.147, 17.162–164, and 17.167.

Revised definition of "distilled spirits." Current regulations in § 197.5 define "distilled spirits" to include only such spirits as have been "fully taxpaid or tax determined at the distilled spirits rate." For consistency with other ATF regulations, these proposed regulations define "distilled spirits" in § 17.11 as that term is defined in Chapter 51 of the Internal Revenue Code of 1954 (26 U.S.C. 5002(a)(8)). When taxpaid or tax determined distilled spirits are specifically intended, the proposed regulations use "taxpaid spirits" or "taxpaid distilled spirits." (See also new definition of "taxpaid" in § 17.11.)

Other new definitions. For clarity, new definitions of "approved," "CFR," "eligible," "month," "person," "proof gallon," "quarter," "recovered spirits," and "this chapter" are also proposed to be added in § 17.11.

Retention of special tax stamps. Current regulations in § 197.47a do not specify a time period for retention of special tax stamps. These proposed regulations (§ 17.55) would make the retention period the same as for other required records and documents (generally 3 years). The retention period for the list of multiple business locations, which is 2 years under current regulations in § 197.28, would also be made the same as for other documents (§ 17.31).

Transfer of functions. This document reflects the transfer of certain functions, relating to processing of tax returns and claims, from the Internal Revenue Service to the Bureau of Alcohol, Tobacco and Firearms. Sections affected are: §§ 17.11, 17.31–34, 17.41–42, 17.51–54, 17.61–62, 17.71, 17.73, 17.92, 17.94, 17.142, and 17.147.

Amount of bond for monthly claims. Current § 197.107 was issued in 1955, when ATF practice was to inspect all drawback claimants at least quarterly. The bond requirement was worded in such a way that if a monthly claimant were inspected more frequently than quarterly, his bond needed only to be sufficient to cover the drawback claimed between inspections. Presently, on-site inspections are conducted much less frequently. No claimant is ever regularly inspected as frequently as quarterly. Therefore, the concept that the amount charged against a bond might be reduced within a quarter, due to frequent inspections, has become obsolete. Proposed § 17.102 reflects this. Bonds for monthly claims must be sufficient to cover the total amount of drawback that will be claimed during any quarter. It is not anticipated that this change will affect the required bond coverage of any current monthly claimant.

Time for filing formulas. Language in § 17.121 (formerly § 197.95), respecting time for filing formulas, is proposed to be revised to more clearly express the statutory requirement of 26 U.S.C. 5131–5134. Both formula and claim are required to be filed within the statutory period of "6 months next succeeding the quarter in which the distilled spirits covered by the claim were used" (26 U.S.C. 5134(b)). However, if there is doubt about the eligibility of a product for drawback, it is preferable that the formula be filed and approved before commencement of manufacture.

Formulas for use at more than one plant. The revised ATF Form 5530.5 (formerly Form 1678) will permit a manufacturer to file a single formula for use at more than one plant, if the plants at which the formula is to be used are listed on the form. This planned change is reflected in § 17.121. If, subsequent to approval of the formula, the manufacturer wishes to begin using that formula at additional plants, it is proposed in § 17.125(b) to permit him to do so upon filing a copy of the formula with the regional director(s) (compliance) for the region(s) in which such additional plants are located. ATF anticipates that this proposed procedure will be much simpler than the present one for manufacturers with more than one plant, but suggestions for further simplification are welcome.

Adoption of formulas. The limitation of present § 197.99 to adoption of "approved" formulas has been modified in proposed § 17.125 to also allow adoption of intermediate product formulas. Adoption of a company's own formulas for use at another plant, as well as adoption by a parent company of the formulas of a wholly owned subsidiary, and vice versa, would be permitted under the proposed regulations. When adopting a predecessor's formulas, it is proposed that the notice of adoption need only list the serial numbers of the adopted formulas (not their names and dates of approval, as in current § 197.99).

Formulas for intermediate products. Current regulations do not explicitly require formulas to be submitted for intermediate products, though generally this has been done anyway. These proposed regulations (§ 17.126) would require formulas to be submitted on ATF Form 5530.5 (formerly 1678) for intermediate products, unless the formula for an intermediate product is expressed as part of the approved formula for the nonbeverage product(s) in which the intermediate will be used.

Self-manufactured ingredients optionally treated either as intermediate products or as unfinished nonbeverage products. An intermediate product may freely be used in any nonbeverage product whose formula calls for its use, and may be accumulated and kept "on hand" indefinitely. Consequently, it is common for several batches of an intermediate product to be combined in one storage receptacle, and for less (or more) than a full batch of such a product to be used to produce a batch of a finished nonbeverage product. These common practices are for the convenience of manufacturers. However, one result of these practices is that, if spirits are lost or recovered in the manufacture of the intermediate product, it would be difficult or impossible to calculate the correct proportion of such lost or recovered spirits that would be attributable to a given batch of finished nonbeverage product. For this reason, current regulations (§§ 197.118–119) generally do not permit drawback to be claimed on spirits lost or recovered in the manufacture of intermediate products. (In the case of such recovered spirits, drawback may be claimed, but only if the spirits are subsequently reused in the manufacture of a nonbeverage product.) These restrictions are necessary for protection of the revenue, and in most cases they present no difficulty to manufacturers.

However, in some instances, manufacture of an intermediate product requires consumption of significant quantities of spirits that are not ultimately contained in that intermediate product, and the inability to claim drawback on such spirits has posed a hardship to the manufacturers. Therefore, such manufacturers have been permitted to resubmit their formulas to show production of the intermediate product as an integral part of the formula for the related nonbeverage product. If this is done, the former "intermediate product" would henceforth be regarded as an unfinished nonbeverage product; consequently, spirits necessarily consumed (or recovered) in its manufacture would be regarded as consumed (or recovered) in the manufacture of a nonbeverage product and would be eligible for drawback.

This procedure avoids the revenue jeopardy previously described, because, under the procedure, each batch of the unfinished product would be restricted to use in a specific batch of a predetermined nonbeverage product and would have to be so used within the time period specified in the approved nonbeverage formula.

In order to make the availability of this procedure known to manufacturers who necessarily consume (or who recover) spirits in the manufacture of intermediate products, the procedure is described in §§ 17.127 and 17.185 of these proposed regulations. The proposed regulations offer manufacturers the option of designating their self-manufactured alcoholic ingredients as either "intermediate products" or "unfinished nonbeverage products." There are advantages and disadvantages that would go with either choice.

The advantage of designating an ingredient as an "unfinished nonbeverage product" would be that spirits recovered or consumed in the manufacture of the ingredient would be eligible for drawback in the same way as other spirits recovered or consumed in the manufacture of nonbeverage products. The disadvantages of this designation would be: (1) Each batch of the ingredient must be used within a limited time in a specific batch of a predetermined nonbeverage product. (The production of the ingredient and of the finished nonbeverage product would be recorded in a single, unified batch record.) (2) The ingredient could not be transferred as an intermediate product under ATF Rul. 76–19 (§ 17.185(b) of the proposed regulations). (This latter restriction is due to the necessity of a single, unified batch record, which must be maintained at the place of production.)

Conversely, the advantages of designating an ingredient as an "intermediate product" would be freedom to accumulate several batches, to store them indefinitely, and to use them indiscriminately in the manufacture of any nonbeverage product whose formula calls for their use. Further, ingredients designated as "intermediate products" may be transferred to another branch or plant of the same manufacturer under §§ 17.169 and 17.185. For manufacturers who already have intermediate product formulas on file, another advantage of choosing the "intermediate product" designation is that no new formula or procedural changes would be required. But the disadvantage of that designation is that spirits lost in production of the intermediate product may not be claimed for drawback.

Subpart U of 27 CFR Part 170. Subpart U of Part 170 provides exemption from special tax and qualification requirements for manufacturers and sellers of certain products that are unfit for beverage use. Subpart U is a very old regulation, dating back to the days before nonbeverage drawback, when the requirements relating to processing of distilled spirits were quite different from what they are today. Consequently, it is proposed that Subpart U of Part 170 be thoroughly redrafted. Some material would be eliminated, either as unnecessary or as covered by other regulations. Material related exclusively to drawback manufacturers would be incorporated in the proposed Part 17. The remaining material would be relocated into Subpart E of Part 19. Conforming amendments would be made in Subpart C of Part 194. Section 170.613(a)(6) ("Salted wines") is being dealt with in a separate document. Sections in Part 17 containing language from Subpart U of Part 170 are: §§ 17.132–133, and 17.168.

Submission of quantitative formulas. The purpose of this proposed change is to strengthen requirements respecting submission of formulas for nonbeverage drawback products. Current regulations allow the use of formulas prescribed by the United States Pharmacopeia (U.S.P.), the National Formulary (N.F.), or the Homeopathic Pharmacopoeia of the United States (H.P.U.S.) without the prior filing and approval of quantitative formulas. This procedure has been allowed because of the descriptive nature of these formulas and their consistency over the years. Presently, however, the N.F. and U.S.P. are deleting their requirements for specific quantities of ingredients in some of their formulas, except for the active ingredients. Such non-descriptive formulas may not be useful for regulatory purposes, since alcohol is usually a vehicle rather than an active ingredient and is therefore not stated as a specific quantity within such formulas. Drawback of distilled spirits tax under 26 U.S.C. 5134 is claimed and allowed on exact amounts of alcohol used in the manufacture of nonbeverage products according to the quantity specified in the approved formula.

Therefore, the proposed regulations are worded such that ATF could require submission of quantitative formulas on ATF Form 5530.5 (formerly 1678), Formula and Process for Nonbeverage Products, for preparations which appear in the N.F., U.S.P., or H.P.U.S. whenever it is determined that such submission is necessary to maintain control over alcohol used and to insure that the products meet the statutory requirements for drawback eligibility. The list of preparations for which approval of quantitative formulas would be required under this proposal would be published as an ATF ruling in the ATF Bulletin. The section affected by this change is § 17.132. Current requirements are found or referred to in §§ 197.5 (definition of "time distilled spirits are used"), 197.95, 197.96, 197.109(d), and 197.115.

U.S.P., N.F., and H.P.U.S. preparations; drawback approval. Current regulations do not state that preparations listed in the U.S.P., N.F., and H.P.U.S. are automatically approved for drawback, though some have assumed so due to the exemption of such products from the formula filing requirement in § 197.96. To clarify this issue so that manufacturers may properly plan, these proposed regulations state that formulas listed in the U.S.P., N.F. and H.P.U.S. are presumed to be approved for drawback, except as otherwise provided by regulation or ATF ruling. However, alcohol, U.S.P.; alcohol and dextrose injection, U.S.P.; tincture of ginger, H.P.U.S.; and all H.P.U.S. preparations made at dilutions weaker than "4X" (one part in 10,000) are declared fit for beverage use. (See § 17.132.)

H.P.U.S preparations. Current regulations exempt preparations listed in the Homeopathic Pharmacopoeia of the United States (H.P.U.S.) from the requirement for filing of formulas (§ 197.96), but this exemption does not entail automatic approval for drawback. The statutory standard of "unfit for beverage purposes" must still be

enforced (26 U.S.C. 5131(a)). Manufacturers of H.P.U.S. products, in accordance with homeopathic practice, often dilute the active ingredients in large quantities of alcohol and water, so that the resulting product is fit for beverage purposes. Such products cannot be approved for drawback. The ATF Laboratory has determined that even for H.P.U.S. products containing poisonous materials (e.g. digitalis and belladonna), dilutions of greater than "4x" (i.e. one part in 10,000) would be fit for beverage use. Therefore, it has been ATF's position to deny drawback for H.P.U.S. products diluted to greater than "4x." These proposed regulations would reflect this position in § 17.132(b). At the same time, the proposed regulations would also permit manufacturers of dilute H.P.U.S. products to contest the presumption of beverage fitness by submitting appropriate evidence that the product is unfit for beverage use.

Determination of beverage unfitness. Proposed new § 17.134 is meant to clarify the procedure used by ATF to determine whether any product, for which a formula is submitted for approval, is fit or unfit for beverage use. It is hoped that manufacturers will utilize this procedure themselves to identify products that are clearly fit for beverage use. The last sentence of proposed § 17.134 (adapted from current §§ 170.615 and 170.618) makes it clear that drawback approval may be revoked if a product is found being used or sold for beverage purposes.

Manufacturers who are also users of denatured alcohol. Pursuant to section 5214(a)(1) of the Internal Revenue Code of 1954, no tax is paid on denatured spirits. Therefore, it would be conducive to fraud on the revenue for a single manufacturer to produce the same product out of both specially denatured alcohol and taxpaid alcohol on which drawback may be claimed. Proposed new § 17.135(a) prohibits this practice.

Compliance with Food and Drug Administration requirements. Proposed new § 17.136 specifies that products shall not be considered to be medicines, medicinal preparations, food products, flavors, or flavoring extracts if they would violate the bans or restrictions of the U.S. Food and Drug Administration applicable to such products. This reflects a longstanding ATF policy that has been expressed in Rev. Rul. 58–350 and in the following Industry Circulars: 62–33, 70–12, 72–8, 72–28, 72–29, 73–6, and 76–17. ATF will not consider a product to be approved for drawback if FDA has banned the product or any of its ingredients. Authority for this regulation comes from 26 U.S.C. 5131, which limits drawback to products which are medicines, medicinal preparations, food products, flavors, or flavoring extracts, and from 26 U.S.C. 5132, which authorizes ATF to prescribe reasonable regulations for the enforcement of that limitation.

Claims for credit by manufacturers of nonbeverage products. There are some business entities that are both manufacturers of nonbeverage products and proprietors of distilled spirits plants. For such entities, it may be more convenient to claim nonbeverage drawback in the form of a credit which may be used to offset distilled spirits taxes owed by the distilled spirits plant. Therefore, proposed § 17.142(b) would permit such a procedure.

Changes in supporting data requirements. The requirements for supporting data which accompany claims are proposed to be greatly simplified to eliminate information not necessary to the processing of drawback claims. Revenue Procedure 64–32 (1964–2 CB 951), which prescribed a format for supporting data, would be made obsolete. The new format—which need not be copied verbatim so long as all the information is included—is printed in the regulations (§ 17.147). The most significant proposed changes to the supporting data are simplification of the distilled spirits account and elimination of detailed information on receipt of spirits, production and use of intermediate products, and use of finished products.

Gains in spirits received or on hand. Under current regulations, when the manufacturer's gauge of spirits received in a tank car or tank truck differs from the taxpayment gauge by more than 0.2%, the receiving gauge must be recorded in the manufacturer's records as the quantity received (§ 197.130a(a)). This is based on the assumption that if the discrepancy is that great, the receiving gauge is more likely to be accurate. However, current regulations do not explicitly require that if the amount of spirits received by a manufacturer *exceeds* the amount taxpaid, the difference must be deducted from the manufacturer's claim. Nevertheless, such deduction has been required by ATF inspectors, who have similarly required deduction for any gain disclosed by physical inventory of distilled spirits. Deduction is appropriate in these circumstances, since a gain indicates either receipt of ineligible (nontaxpaid) spirits or an excessive claim in a previous period. Therefore, these proposed regulations state that manufacturers shall deduct, from the drawback claimed for the applicable period, an amount reflecting any inventory gain of eligible spirits and any excess of spirits received over the amount that was taxpaid. (See §§ 17.147(b)(3), 17.162(d), and 17.167(a).)

Public Law 98–369. This document reflects certain changes made by Pub. L. 98–369 (Deficit Reduction Act of 1984). Those changes are: (1) Addition of 26 U.S.C. 5206(d) (relating to obliteration of marks), (2) imposition of a $1,000 penalty for nonfraudulent violations of drawback law and regulations, and (3) increase in the distilled spirits tax rate. Sections affected are: §§ 17.147(c), 17.148, 17.162–164, and 17.184.

Changes in recordkeeping requirements. Certain items which are proposed to be deleted from the supporting data have been incorporated into the records required by Subpart H of Part 17 (formerly Subpart H of Part 197) to be maintained at each nonbeverage premises. Certain currently required records which are duplicative of the information provided by the supporting data have been deleted from the proposed Subpart H. Additional records on the usage of nonbeverage products are proposed to be required, to verify that such products were manufactured in the amount claimed (see § 17.166). The holding of Industry Circular 79–5 with respect to records of raw materials and finished products has been clarified and incorporated in the proposed regulations (see §§ 17.164 and 17.165). Recordkeeping requirements for recovered alcohol, currently in § 170.617(c), are incorporated in proposed § 17.168. New language is proposed to be added in § 17.161 to emphasize the important point that a manufacturer's normal business records (including invoices and cost accounting records) are acceptable for ATF purposes if they contain the required information. ATF anticipates that, in most situations, no records besides these normal business records need be maintained for purposes of compliance with these proposed regulations.

Use of commercial invoices. A new provision is proposed to be added in § 17.163 (currently § 197.130b) to require manufacturers to obtain commercial invoices or other documentation received when spirits are purchased from wholesale and retail liquor dealers. This new requirement will help provide evidence of taxpayment of the spirits.

Physical inventories. Current regulations do not clearly specify the frequency of physical inventories, although arguably §§ 197.116–119 require such inventories every claim period for distilled spirits, recovered spirits, and intermediate products.

These proposed regulations specify that the "on hand/in process" figures in the supporting data must be verified by physical inventories at the end of each period for which a claim is filed. The proposed regulations also would authorize the regional director (compliance) to require physical inventories of nonbeverage products and raw ingredients whenever he deems such inventories to be necessary to ensure compliance with regulations. (See § 17.167.)

Records retention. Section 17.170 (currently § 197.133) would be amended to extend the records retention period from 2 years to 3 years, as in other ATF regulations. The purpose of this change is to ensure that records will be available to support any action that may be taken within the period of the statute of limitations prescribed by 26 U.S.C. 6531. This section of law prescribes a 3-year statute of limitations for most offenses; but for certain offenses involving fraud or willful violation, the statute of limitations is 6 years. Therefore, as in other ATF regulations, these proposed regulations contain a provision that would permit the regional director (compliance) to require a manufacturer to retain his records for a longer period, not to exceed an additional 3 years.

Inspection of records. In addition to the records specifically required by these regulations, ATF officers are authorized under 26 U.S.C. 5133 (as delegates of the Secretary) to inspect any records "bearing upon the matters required to be alleged" in drawback claims. This important principle is reiterated in the regulations in new § 17.171.

In carrying out this authority, ATF will continue, as in the past, to protect proprietary information. For example, the production records in § 17.164 do not require greater detail as to ingredients than is shown on ATF Form 5530.5. If some secret ingredients of a formula are referred to in general terms on its Form 5530.5—e.g. "essential oils"—then the required production record for that product need only show the quantity of "essential oils" used in the production of each batch. If circumstances should require an ATF officer to examine other records, § 17.171 would not provide authority for copies of master formulas to be made without the consent of the proprietor.

The law, in 18 U.S.C. 1905 and 26 U.S.C. 7213, imposes criminal penalties on any ATF officer who makes unauthorized disclosure of confidential business information coming to him in the course of his employment. Further restrictions on disclosure are found in 26 U.S.C. 6103, which generally prohibits unauthorized disclosure of returns and return information. "Returns" and "return information" are defined in that section to include drawback claims and the records and reports which support them.

Disposition of material from which alcohol can be recovered. ATF Ruling 81-8 provided a liberalized procedure for the disposition of spent vanilla beans, under which the beans may be treated by the manufacturer with any material that he finds suitable to make recovery of potable alcohol impractical. The manufacturer is not required to obtain prior approval from ATF. In broadening this rule, to make it applicable to the disposition of any material from which alcohol can be recovered, ATF has concluded that prior approval should be obtained for the use of new materials. Consequently, proposed § 17.183 lists the materials that have already been authorized to be added to spent vanilla beans—for which no further authorization is needed—and requires approval of a written application if other materials are proposed to be added to such beans, or if other substances from which alcohol can be recovered are proposed to be disposed of.

DISTRIBUTION TABLE FOR PART 197

Old section	New section
Subpart A	
§ 197.1	§ 17.1.
§ 197.2	§ 17.2.
§ 197.3	§ 17.3.
Subpart B	
§ 197.5: (generally)	§ 17.11.
"Director of the Service Center".	Deleted; unnecessary.
"District Director"	Deleted; unnecessary.
"Time distilled spirits used".	§ 17.152(a).
"Used"	§ 17.151.
"Year"	Deleted; unnecessary.
Subpart C	
§ 197.25	§ 17.21.
§ 197.26	§ 17.22.
§ 197.27	§ 17.23.
§ 197.28	§ 17.31.
§ 197.29	§ 17.32.
§ 197.29a	§ 17.41.
§ 197.29b	§ 17.42.
§ 197.29c	§ 17.43.
§ 197.30	§ 17.33.
§ 197.31	§ 17.34.
Subpart D	
§ 197.40	§ 17.51.
§ 197.40a	§ 17.52.
§ 197.41	§ 17.54.
§ 197.42	§ 17.53.
§ 197.43	§ 17.61.
§ 197.46	§ 17.62.
§ 197.47	§ 17.63.
§ 197.47a	§ 17.55.
§ 197.48	§ 17.71.
§ 197.49	§ 17.72.
§ 197.50	§ 17.73.
§ 197.51	§ 17.74.
§ 197.52	§ 17.81.
§ 197.53	§ 17.82.
§ 197.54	§ 17.83.
§ 197.55	§ 17.91.
§ 197.56	§ 17.92.
§ 197.57	§ 17.93.
§ 197.58	§ 17.94.
§ 197.59	§ 17.95.
Subpart E	
§ 197.65	§ 17.101 (up to last sentence).
§ 197.66	§ 17.103.
§ 197.67	§ 17.105.
§ 197.68	§ 17.104.
§ 197.69	§ 17.106.
§ 197.70	§ .17.144 (2nd sentence).
§ 197.71	§ 17.101 (last sentence).
§ 197.72	§ 17.107.
§ 197.73	§ 17.108.
§ 197.75	§ 17.111.
§ 197.76	§ 17.112.
§ 197.77 (except last sentence).	§ 17.113.
§ 197.77 (last sentence).	Covered by § 17.108 (last sentence).
§ 197.79	Covered by § 17.111.
§ 197.80	§ 17.114.
Subpart F	
§ 197.95 (sentences 1-2, 6, 8-9).	§ 17.121.
§ 197.95 (sentences 3 and 4).	§ 17.131.
§ 197.95 (5th sentence).	§ 17.137.
§ 197.95 (7th sentence).	§ 17.122.
§ 197.95 (last sentence).	Will be covered by revised ATF Form 5530.5.
§ 197.96	§ 17.132(a).
§ 197.97	§ 17.123.
§ 197.98	§ 17.124.
§ 197.99	§ 17.125(a).
Subpart G	
§ 197.105	§ 17.141.
§ 197.106 (up to proviso).	§ 17.142(a).
§ 197.106 (proviso, except next-to-last sentence).	§ 17.143.
§ 197.106 (next-to-last sentence).	§ 17.146(b).
§ 197.107 (except first and last sentences).	§ 17.102.
§ 197.107 (first and last sentences).	§ 17.144 (first and last sentences).

DISTRIBUTION TABLE FOR PART 197—Continued

Old section	New section
§ 197.108	§ 17.145.
§ 197.109	§ 17.146(a).
§ 197.110	§ 17.147(a).
§ 197.111	§ 17.147(c), Part I.
§ 197.112–113	§ 17.162(a).
§ 197.114	§ 17.162(b).
§ 197.115	§ 17.147(c), Part III.
§ 197.116 (except last sentence).	§ 17.147(c), Part II (column (a)).
§ 197.116 (last sentence); also § 197.117 (2nd sentence), § 197.118 (2nd sentence), and § 197.119 (2nd sentence).	§§ 17.147(b)(6) and 17.167(a).
§ 197.117 (first sentence).	§ 17.147(c), Part II (column (c)).
§ 197.117 (3rd and 4th sentences).	§ 17.153(b).
§ 197.117 (last sentence).	§ 17.153(c).
§ 197.118 (first sentence).	§ 17.147(c), Part II (column (b)).
§ 197.118 (last sentence).	§ 17.153(a).
§ 197.119 (first sentence).	Deleted; covered by § 17.147(c), Part II (column (d)) and § 17.164(a).
§ 197.119 (last sentence).	§ 17.155.
Subpart H	
§ 197.130 (introduction).	§ 17.161 (first sentence).
§ 197.130(a)–(d)	Covered by § 17.162(a)–(c).
§ 197.130(e)–(g)	§ 17.164(a).
§ 197.130(n)–(j)	§ 17.166(a).
§ 197.130a(a)	§ 17.162(d).
§ 197.130a(b)	§ 17.164(b).
§ 197.130b	§ 17.163 (a) and (c).
§ 197.131	§ 17.166(c).
§ 197.132 (except last clause).	§ 17.161 (from 2nd sentence to end).
§ 197.132 (last clause).	Covered by § 17.171.
§ 197.133 (except last sentence).	§ 17.170.
§ 197.133 (last sentence).	§ 17.171.

DERIVATION TABLE FOR PART 17

New section	Source
Subpart A	
§ 17.1	§ 197.1.
§ 17.2	§ 197.2.
§ 17.3	§ 197.3.
§ 17.4	New.
Subpart B	
§ 17.11: (generally)	§ 197.5.

DERIVATION TABLE FOR PART 17—Continued

New section	Source
"Alcohol and Tobacco Laboratory".	New.
"Approved"	New.
"CFR"	New.
"Effective tax rate"	New.
"Eligible"	New.
"Food products"	Rev. Rul. 63–87.
"Medicines"	ATF Rul. 82–7.
"Month"	New.
"Proof gallon"	New.
"Quarter"	New.
"Taxpaid"	New.
Subpart C	
§ 17.21	§ 197.25.
§ 17.22	§ 197.26.
§ 17.23	§ 197.27.
§ 17.31	§ 197.28.
§ 17.32	§ 197.29.
§ 17.33	§ 197.30.
§ 17.34	§ 197.31.
§ 17.41	§ 197.29a.
§ 17.42	§ 197.29b.
§ 17.43	§ 197.29c.
Subpart D	
§ 17.51	§ 197.40.
§ 17.52	§ 197.40a.
§ 17.53	§ 197.42.
§ 17.54	§ 197.41.
§ 17.55	§ 197.47a.
§ 17.61	§ 197.43.
§ 17.62	§ 197.46.
§ 17.63	§ 197.47.
§ 17.71	§ 197.48.
§ 17.72	§ 197.49.
§ 17.73	§ 197.50.
§ 17.74	§ 197.51.
§ 17.75	New.
§ 17.76	ATF Rul. 74–2.
§ 17.81	§ 197.52.
§ 17.82	§ 197.53.
§ 17.83	§ 197.54.
§ 17.91	§ 197.55.
§ 17.92	§ 197.56.
§ 17.93	§ 197.57.
§ 17.94	§ 197.58.
§ 17.95	§ 197.59
Subpart E	
§ 17.101	§§ 197.65 and 197.71.
§ 17.102	§ 197.107 (except first and last sentences).
§ 17.103	§ 197.66.
§ 17.104	§ 197.68.
§ 17.105	§ 197.67.
§ 17.106	§ 197.69.
§ 17.107	§ 197.72.
§ 17.108	§ 197.73.
§ 17.111	§§ 197.75 and 197.79.
§ 17.112	§ 197.76.
§ 17.113	§ 197.77.
§ 17.114	§ 197.80.
Subpart F	
§ 17.121	§ 197.95 (sentences 1–2, 6, 8–9).

DERIVATION TABLE FOR PART 17—Continued

New section	Source
§ 17.122	§ 197.95 (7th sentence) and ATF Rul. 77–27.
§ 17.123	§ 197.97.
§ 17.124	§ 197.98.
§ 17.125(a)	§ 197.99.
§ 17.125(b)	New.
§ 17.126(a)	New.
§ 17.126(b)	Rev. Rul. 69–138.
§ 17.127	New.
§ 17.131	§ 197.95 (3rd and 4th sentences).
§ 17.132(a)	§ 197.96.
§ 17.132(b)	§ 170.616.
§ 17.133	§ 170.613(a)(7)–(9), Rev. Rul. 63–87 and ATF Rul. 73–1.
§ 17.134	New.
§ 17.135	Rev. Ruls. 56–239 and 56–367.
§ 17.136	Rev. Rul. 58–350.
§ 17.137	§ 197.95 (5th sentence) and Rev. Rul. 56–314.
Subpart G	
§ 17.141	§ 197.105.
§ 17.142(a)	§ 197.106 (up to proviso) and ATF Order 1100.95A.
§ 17.142(b)	New.
§ 17.143	§ 197.106 (proviso, except next-to-last sentence).
§ 17.144	§§ 197.70 and 197.107 (first and last sentence).
§ 17.145	§ 197.108.
§ 17.146	§§ 197.106 (next-to-last sentence) and 197.109.
§ 17.147	§§ 197.110–119 and Rev. Proc. 64–32.
§ 17.148	New.
§ 17.151	§ 197.11 ("Used").
§ 17.152(a)	§ 197.11 ("Time distilled spirits are used").
§ 17.152(b)	ATF Rul. 76–17.
§ 17.152(c)	Rev. Ruls. 56–394 and 69–138.
§ 17.152(d)	Rev. Rul. 69–138.
§ 17.153	§ 197.117 (last 3 sentences) and 197.118 (last sentence).
§ 17.154	§ 197.11 ("Intermediate products").
§ 17.155	§ 197.119 (last sentence).
Subpart H	
§ 17.161	§§ 197.130 (introduction) and 197.132 (except last clause).
§ 17.162(a)	§§ 197.112–113 and 197.130(a)–(d).

DERIVATION TABLE FOR PART 17—Continued

New section	Source
§ 17.162(b)	§§ 197.114 and 197.130(a)–(d).
§ 17.162(c)	New.
§ 17.162(d)	§ 197.130a(a).
§ 17.163(a) and (c)	§ 197.130b.
§ 17.163(b)	New.
§ 17.164	§§ 197.130(e)–(g) and 197.130a(b).
§ 17.165	Industry Circular 79–5.
§ 17.166(a)	§ 197.130(h)–(j).
§ 17.166(b)	New.
§ 17.166(c)	§ 197.131.
§ 17.167(a)	§§ 197.116–119.
§ 17.167(b)	Industry Circular 79–5.
§ 17.168	§ 170.617(c).
§ 17.169	New.
§ 17.170	§ 197.133 (except last sentence).
§ 17.171	§ 197.132 (last two clauses), § 197.133 (last sentence) and Industry Circular 79–5.
Subpart I	
§ 17.181	Rev. Rul. 56–335.
§ 17.182	Rev. Rul. 56–336.
§ 17.183	ATF Rul. 81–8.
§ 17.184	New.
§ 17.185(a) and (c)	New.
§ 17.185(b)	ATF Rul. 76–19.
§ 17.186	Rev. Rul. 56–395.
§ 17.187	Rev. Rul. 55–689.

Opportunity for Public Comment

Interested persons who wish to participate in the rulemaking process are invited to address written comments or suggestions to the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, within 90 days after the date of publication of this notice in the **Federal Register**. Comments are particularly sought concerning records or other proposed requirements that go beyond what would normally be kept in the course of good business practice (except if such additional requirements are necessary for revenue protection). For example, do the proposed requirements for accounting for "intermediate products" reflect the ordinary accounting methods for such products? Is the term "intermediate product"—as defined and used in the proposed regulations—obsolete or inaccurate? Is there a better or simpler way to keep track of the alcohol and other ingredients as they move through the manufacturing process toward their destination in the finished nonbeverage product?

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, within the 90-day period. However, the Bureau reserves the right to determine, in the light of all the circumstances, whether a public hearing should be held. Copies of the proposed changes and all public comments received are available for public inspection from 8:30 a.m. to 5:00 p.m. in Room 4406, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW, Washington, DC.

Executive Order 12291

In compliance with Executive Order 12291 of February 17, 1981, the Bureau has determined that this proposal is not a major rule since it will not result in:

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

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

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

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are applicable to this proposal. An initial regulatory flexibility analysis has been prepared and reads as follows.

Initial Regulatory Flexibility Analysis for Recodification of Nonbeverage Drawback Regulations (27 CFR 197)

Rationale for Agency Action

The law (26 U.S.C. 5131–5134) authorizes a drawback of internal revenue tax on alcohol used in the manufacture of certain nonbeverage products. This drawback shall be granted by the Department of the Treasury on receipt of a proper claim. To determine whether a claim is proper, regulations may require certain records to be kept and reports to be submitted by those claiming drawback, in order to establish their eligibility. That is, it must be shown that the alcohol on which drawback is claimed: (1) Was actually used, (2) was used in the manufacture of the particular products for which drawback is authorized, and (3) was originally taxpaid.

The regulations dealing with nonbeverage drawback are therefore issued under this primary rationale: to protect the revenue. However, this rationale is modified by a secondary rationale, which is: To require only those items of information to be submitted or to be recorded which are actually necessary to establish eligibility for drawback. With respect to those items required to be submitted to the Bureau of Alcohol, Tobacco and Firearms, only those should be submitted which are actually used to maintain control over the approval of claims. With respect to those records required to be maintained at the claimant's premises, the claimant's own record system should be utilized at all possible times to avoid duplication.

Objective and Legal Basis for the Proposed Rule

A. *Objective basis.* The objective basis of these proposed regulations is that a dual control system is used to verify the propriety of claims: Initially, a sampling procedure in the regional office is used to screen the claims before they are paid; subsequently, periodic field inspections at the manufacturing premises provide the opportunity to audit more detailed records.

At the regional offices, not every item on every report would be checked every time; however, a sufficient number must be checked in order to insure that there is no likelihood of fraud. Those reports which are checked must contain sufficient information to reveal undisguised fraud and/or honest mistakes. The information submitted should also permit detection of any problems which would result in scheduling an on-site inspection sooner than would otherwise be planned.

During on-site inspections, ATF officers examine original batch records to verify compliance with approved formulas. A physical inventory is taken and records are examined to see whether they agree with the inventory. If necessary, a claim adjustment may be required.

B. *Legal basis.* The legal basis of these regulations is found in 26 U.S.C. 5131–5134 and 7805. These laws give the Secretary of the Treasury broad discretion to enact regulations, but the regulations must be limited to the function of revenue protection. Treasury Department Order No. 120–01 (dated June 6, 1972, effective July 1, 1972) delegated to the Bureau of Alcohol, Tobacco and Firearms the function of prescribing and administering such regulations.

C. *Estimate of number of small entities affected and types.* It is estimated that this document will affect about 500 small entities which use taxpaid alcohol to manufacture nonbeverage products.

Detailed Estimate and Description of the Reporting, Recordkeeping and Compliance Requirements Anticipated

A. *Reporting requirements.* The most significant reporting requirements of this document pertain to: The amount of taxpaid alcohol received, the amount of each product produced, the amount of taxpaid alcohol used and the product in which used, the amount of alcohol recovered (if any), the amount of tax claimed as drawback, the amount of alcohol on hand at the beginning and end of each claim period, and an explanation of any discrepancies disclosed by physical inventory. These items must be reported whenever a claim is submitted. Other reports which are required less frequently include: statements of formula and process (which are necessary to establish that the products being manufactured are of the types for which drawback is authorized under law), bonds and consents of surety in the case of claimants filing monthly claims, samples of the product if needed to determine its nonbeverage character, a special tax return and registration (required by 26 U.S.C. 5131–5132), an application for an employer identification number in order to identify the special taxpayer, and information relating to any changes in the location or control of the business. If no drawback is claimed, then none of the requirements need be complied with. The reporting requirements affect all classes of nonbeverage drawback manufacturers. Some knowledge of chemistry may be helpful in preparing the required formulas for submission, and an elementary knowledge of bookkeeping would be needed to maintain the required accounts for submission.

B. *Recordkeeping requirements.* The recordkeeping requirements of this regulation are designed to be supplementary to the reporting requirements. The records support and amplify the statements given in the required reports. Ultimately, the purpose is to facilitate verification of the amount of drawback claimed. No particular form of record is required; rather, the records may be kept in any format, so long as the information is clearly expressed. For the most part, these required records are merely ordinary business records which the manufacturer would normally maintain in the course of his business. However, it is still necessary for regulations to specify that these records must be kept; because otherwise a claimant under investigation might falsely claim that he does not keep the records, and if there were no requirement for the records to be kept, then it would be difficult to prove any violation against such a person. The records which this regulation requires claimants to keep are: copies of the reports submitted, records of disposition of nonbeverage products, records of raw materials received, accounting for recovered alcohol, invoices of purchases, evidence of taxpayment, and batch records of ingredients used in each production batch. The regional director (compliance) may also require a manufacturer to keep inventory records of raw materials and nonbeverage products. All classes of nonbeverage drawback manufacturers are affected by these recordkeeping requirements. An elementary knowledge of bookkeeping would be needed to prepare and record the prescribed accounts.

C. *Compliance requirements.* The compliance requirements of this regulation are: to retain the special tax stamp at the place of business as evidence of payment of special tax; to observe the statutory time restriction for filing of claims (6 months following the close of the quarter within which the alcohol was used); to retain the required records for a period of at least 3 years; to obliterate taxpayment marks on emptied containers of distilled spirits (as required by 26 U.S.C. 5206); to use intermediate products, and alcohol recovered from nonbeverage products, for no purpose other than to manufacture nonbeverage products; to transfer intermediate products to no one except another branch or plant of the same manufacturer; to refrain from transferring unfinished nonbeverage products to any other premises; and to refrain from selling or transferring any recovered alcohol or material from which alcohol can be recovered. All classes of nonbeverage drawback manufacturers would be affected by these requirements. No special skills would be needed for compliance.

Conflicting, Duplicative or Overlapping Federal Rules

Some of the requirements of these regulations may overlap requirements of the Internal Revenue Service. The reason for this is that the Internal Revenue Service requires certain financial and cost accounting records in order to establish income tax liability, and in some cases the same information may be required by this part in order to establish eligibility for drawback of excise tax. In case of such overlap, the proprietor would not be required to keep two separate sets of records; the same set of records could suffice to meet the requirements of both ATF and IRS regulations. There would be no additional burden, because these records are merely those which anyone would keep in the ordinary course of business. The Food and Drug Administration may also require certain records which duplicate or overlap the records required by these regulations. Such FDA records would also satisfy the ATF requirement, due to the fact that these proposed regulations do not specify any particular format for the records, so long as the information is clearly presented and available to ATF inspectors.

Alternatives

A. *Multitiering.* This concept was not used because the large majority or manufacturers of nonbeverage products are small entities. Consequently, the requirements of the proposed regulations were specifically designed in consideration of the needs of small establishments. Larger establishments should also be able to comply with these requirements without particular difficulties.

B. *Simplification of requirements.* The requirements as they are proposed are felt to be at the minimum. These requirements are necessary in order to protect the revenue and detect fraud against the Treasury. In most cases, of course, no fraud exists. But the requirements must be imposed equally on all claimants, so that if and when fraud exists, it will be detected. This is the statutory mandate of 26 U.S.C. 5232.

C. *Performance standards.* This concept was utilized as much as possible. For example, a standard format for "supporting data" reports is presented—*but not required.* (Any desired format may be used if it provides the necessary information.) Similarly, the required records also may be kept in any convenient format. However, the needs of the Government, with respect to expeditious processing of claims and taxpayments, mandated prescription of specific forms for submission of drawback claims and payment of special tax. A specific form is also prescribed for formula submission, in order to facilitate communication concerning the formula among the applicable ATF offices as well as between ATF and the claimant. A special regulations section authorizes variation from most requirements if good cause can be shown for a variation.

D. *Exemption of small entities.* The law does not authorize exemption of any entity from the requirements.

Paperwork Reduction Act

The requirements to collect information proposed in this notice have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35. Comments relating to ATF's compliance with 5 CFR Part 1320 ("Controlling Paperwork Burdens on the Public") should be submitted to: Office of Information and Regulatory Affairs, Attention: ATF Desk Officer, Office of Management and Budget, Washington, DC 20503.

List of Subjects

27 CFR Parts 17 and 197

Alcohol and alcoholic beverages, Authority delegations, Claims, Drugs, Excise taxes, Foods, Spices and flavorings, Surety bonds, Reporting and recordkeeping requirements.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and Containers, Reporting and recordkeeping requirements, Research, Spices and flavorings, Surety bonds, Security measures, Stills, Transportation, U.S. possessions, Vinegar, Warehouses, Wine.

27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations, Claims, Customs duties and inspection, Disaster assistance, Excise taxes, Labeling, Liquors, Penalties, Reporting and recordkeeping requirements, Surety bonds, Wine.

27 CFR Part 194

Alcohol and alcoholic beverages, Authority delegations, Beer, Claims, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Wine.

Drafting Information.

The principal drafter of this document was Steven C. Simon of the Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms.

Issuance

Accordingly, it is proposed that Title 27 of the Code of Federal Regulations be amended as follows:

Paragraph A. Title 27 CFR Part 17 is added to read as follows:

PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Authority: 5 U.S.C. 552; 26 U.S.C. 5131–5134, 5143, 5146, 5206, 5273, 6065, 6091, 6109, 6402, 6511, 6676, 7213, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Subpart A—General Provisions

§ 17.1 Scope of regulations.

The regulations in this part apply to the manufacture of medicines, medicinal preparations, food products, flavors, and flavoring extracts that are unfit for beverage use and are made with taxpaid distilled spirits. The regulations cover the following topics: obtaining drawback of internal revenue tax on distilled spirits used in the manufacture of nonbeverage products; the payment of special (occupational) taxes in order to be eligible to receive drawback; and bonds, claims, formulas and samples, losses, and records to be kept pertaining to the manufacture of nonbeverage products.

§ 17.2 Forms prescribed.

(a) The Director is authorized to prescribe all forms, including bonds and records, required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

§ 17.3 Incorporations by reference.

(a) "The United States Pharmacopeia (Twenty-first Revision, Official from January 1, 1985) and The National Formulary (Sixteenth Edition, Official from January 1, 1985)," published together as "The USP and NF Compendia," are incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register. This publication may be inspected at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, DC, and is available from the United States Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Maryland 20852. (See § 17.132.)

(b) "The Homeopathic Pharmacopoeia of the United States" (Volume I, 8th Edition, 1979) is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register. This publication may be inspected at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, DC, and is available from the American Institute of Homeopathy, 1500 Massachusetts Avenue NW., Suite 40, Washington, DC 20005. (See § 17.132.)

(Pub. L. 89–554, 80 Stat. 383, as amended (5 U.S.C. 552(a))

§ 17.4 Alternate methods or procedures.

(a) *General.* The Director may approve the use or an alternate method or procedure in lieu of a method or procedure prescribed in this part if he finds that—

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the method or procedure prescribed by this part, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in any increase in cost to the Government or hinder the effective administration of this part.

(b) *Application.* A letter of application to employ an alternate method or procedure shall be submitted to the regional director (compliance) for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor.

(c) *Approval.* No alternate method or procedure shall be employed until the application has been approved by the Director. The Director shall not approve any alternate method relating to the giving of any bond or to the assessment, payment, or collection of any tax. The manufacturer shall, during the period of authorization, comply with the terms of the approved application and with any conditions thereto stated by the Director in his approval. Authorization for any alternate method or procedure may be withdrawn by written notice from the Director whenever in his judgment the revenue is jeopardized, the effective administration of this part is hindered, or good cause for the authorization no longer exists. The manufacturer shall retain, in the records required by § 17.170, any authorization given by the Director under this section.

Subpart B—Definitions

§ 17.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms have the meanings given in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

Alcohol and Tobacco Laboratory. The Alcohol and Tobacco Laboratory, Bureau of Alcohol, Tobacco and Firearms, 1401 Research Boulevard, Rockville, Maryland 20850.

Approved, or *approved for drawback.* Used with reference to products and their formulas, means that drawback may be claimed on eligible spirits used in such products in accordance with this part.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

CFR. The Code of Federal Regulations.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC 20226; or his delegate.

Distilled spirits, or *spirits.* That substance known as ethyl alcohol, ethanol, spirits, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced).

Effective tax rate. The tax imposed on distilled spirits products by 26 U.S.C. 5001 or 7652, less the credit authorized by 26 U.S.C. 5010 for the wine or flavors content of such products.

Eligible, or *eligible for drawback.* Used with reference to spirits, means taxpaid spirits which have not yet been used in nonbeverage products.

Filed. Subject to the provisions of 26 CFR 301.7502–1 through 301.7503–1, a claim for drawback or other document or payment suomitted under this part is generally considered to have been

"filed" when it is received by the office of the proper Government official; but if an item is mailed timely, then the United States postmark date is treated as the date of filing.

Food products. Includes food adjuncts, such as preservatives, emulsifying agents, and food colorings, which are manufactured and used, or sold for use, in food.

Intermediate products. Products which (1) are made with taxpaid distilled spirits, (2) have been disapproved for drawback, and (3) are made by the manufacturer exclusively for his own use in the manufacture of nonbeverage products approved for drawback. Ingredients treated as unfinished nonbeverage products under § 17.127 are not considered to be intermediate products.

Medicines. Includes laboratory strains and reagents for use in medical diagnostic procedures.

Month. A calendar month.

Nonbeverage products. Medicines, medicinal preparations, food products, flavors, or flavoring extracts, which are manufactured using taxpaid distilled spirits, and which are unfit for use for beverage purposes.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit, which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit (referred to water at 60 degrees Fahrenheit as unity), or the alcoholic equivalent thereof.

Quarter. A 3-month period beginning January 1, April 1, July 1, or October 1.

Recovered spirits. Taxpaid spirits that have been salvaged, after use in the manufacture of a product or ingredient, so that the spirits are reusable.

Regional director (compliance). The principal ATF regional official responsible for administering regulations in this part.

Special tax. The special (occupational) tax on manufacturers of nonbeverage products, imposed by 26 U.S.C. 5131.

Taxpaid. When used with respect to distilled spirits, this term shall mean that all taxes imposed on such spirits by 26 U.S.C. 5001 or 7652 have been determined or paid as provided by law.

Tax year. The period from July 1 of one calendar year through June 30 of the following year.

This chapter. Chapter I of Title 27 of the Code of Federal Regulations.

Total annual use. The total quantity of taxpaid distilled spirits (proof gallons), which are used in the manufacture of nonbeverage products during a tax year.

U.S.C. The United States Code.

Subpart C—Special Tax

§ 17.21 Payment and rates of special tax.

Each person who uses taxpaid distilled spirits in the manufacture or production of nonbeverage products shall pay special tax in order to be eligible to receive drawback on the spirits so used. Special tax rates, set by 26 U.S.C. 5131(b), are as follows: $25 per tax year for total annual use not exceeding 25 proof gallons; $50 per tax year for total annual use not exceeding 50 proof gallons; or $100 per tax year for total annual use of more than 50 proof gallons. If a claim is filed covering taxpaid distilled spirits used during the preceding tax year, and special tax has not been paid for the preceding tax year, then special tax for the preceding tax year shall be paid in the appropriate amount. Special tax, based upon estimated use, may be paid in advance of actual use. Adjustments of the special tax where improperly paid are made in accordance with §§ 17.91–17.95. The manufacturer is not required to pay the special tax if he does not claim drawback.

§ 17.22 Special tax for each place of business.

A separate special tax shall be paid for each place where distilled spirits are used in the manufacture or production of nonbeverage products, if a claim is filed for drawback of tax on distilled spirits so used at each such place.

§ 17.23 Time for payment of special tax.

Special tax shall be paid before a claimant is eligible to receive drawback. Regardless of the portion of a tax year covered by a claim, the full annual special tax of $25, $50, or $100, as the case may be, shall be paid.

Special Tax Returns

§ 17.31 Filing of return and payment of special tax.

(a) *General.* Drawback claimants shall file returns on ATF Form 5630.5, Annual Special Tax Registration and Return, together with payment of the tax due. The return and payment shall be filed with ATF in accordance with instructions on tne form.

(b) *Multiple locations.* If a taxpayer is subject to special tax for the same time period at two or more places under § 17.22, the taxpayer shall file one special tax return on Form 5630.5 (prepared in the manner prescribed in §§ 17.32–34), with payment of the tax to cover all such places. (Separate returns are required if different time periods are involved.) The return with tax shall be filed with ATF in accordance with instructions on the form. In addition, the taxpayer shall prepare, in duplicate, a list identifying his name, address, employer identification number, class of tax, and period covered by the return. The list shall show, by States, the name (and trade name, if any) and address of each place (including the taxpayer's principal place of business, or principal office, if subject to special tax) for which special tax is being paid. The taxpayer shall file the original of the list together with the return, and shall retain the copy at his principal office for the period specified in § 17.170.

(68A Stat. 752, as amended (26 U.S.C. 6091))

§ 17.32 Completion of ATF Form 5630.5.

Special tax returns, ATF Form 5630.5, may be obtained from the regional director (compliance) and shall state, in the spaces provided, the following:

(a) The true name of the taxpayer, which may be followed by the words "trading as" and the trade name under which the business is conducted.

(b) The employer identification number (see §§ 17.41–1743).

(c) The exact location of the place of business, by building number and street name, or, if either of these do not exist, some particularization in addition to the post office address. In the case of one return for multiple locations, as provided in § 17.31(b), the location to be shown on the Form 5630.5 shall be that of the taxpayer's principal place of business (or principal office in tne case of a corporate taxpayer).

(d) The kind of business carried on.

(e) Except in the case of a corporation, the true names of all persons having a proprietary interest in the business. While it is not necessary that the names of all persons having a proprietary interest in the business appear on the special tax stamp, the names shall be disclosed on the return, Form 5630.5.

§ 17.33 Signature of returns on ATF Form 5630.5.

The return of an individual proprietor shall be signed by tne proprietor; the return of a partnership shall be signed by a general partner; and the return of a corporation shall be signed by a corporate officer. In each case, the person signing the return shall designate his capacity, as "individual owner," "member of partnership," or, in the case of a corporation, the title of the officer. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act. No

return executed by a person as agent is acceptable unless a power of attorney authorizing the person to act in this capacity is filed with the regional director (compliance).

§ 17.34 Verification of returns.

The taxpayer shall verify each return on ATF Form 5630.5 by a written declaration that it is made under the penalties of perjury.

(68A Stat. 749 (26 U.S.C. 6065))

Employer Identification Number

§ 17.41 Requirement for employer identification number.

The employer identification number of the taxpayer who has been assigned such a number shall be shown on each ATF Form 5630.5, including amended Forms 5630.5, filed pursuant to the provisions of this part. Failure of the taxpayer to include his employer identification number on Form 5630.5 may result in assertion and collection of the penalty specified in § 70.105 of this chapter.

(Secs. 1(a), (b), Pub. L. 87–397, 75 Stat. 828 (26 U.S.C. 6109, 6676))

§ 17.42 Application for employer identification number.

(a) An employer identification number is assigned pursuant to application on IRS Form SS–4, Application for Employer Identification Number, filed by the taxpayer. Form SS–4 may be obtained from any office of the Internal Revenue Service.

(b) Each taxpayer who files a return on ATF Form 5630.5 shall make application on IRS Form SS–4 for an employer identification number, unless he has already secured such a number or made application for one. This application on Form SS–4 shall be filed on or before the seventh day after the date on wnich his first return on Form 5630.5 is filed.

(c) Each taxpayer shall make application for and shall be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file Form 5630.5.

(Sec. 1(a), Pub. L. 87–397, 75 Stat. 828 (26 U.S.C. 6109))

§ 17.43 Execution of Form SS–4.

The taxpayer shall prepare and file the application on IRS Form SS–4, together with any supplementary statement, in accordance with instructions on the form and applicable regulations of the Internal Revenue Service. The application shall be signed by—

(a) The individual, if the applicant is an individual;

(b) The president, vice president, or other principal officer, if the applicant is a corporation;

(c) A responsible and duly authorized member or officer having knowledge of its affairs, if the applicant is a partnership or other unincorporated organization; or

(d) The fiduciary, if the applicant is a trust or estate.

(Sec. 1(a), Pub. L. 87–397, 75 Stat. 828 (26 U.S.C. 6109))

Subpart D—Special Tax Stamps

§ 17.51 Issuance of stamps.

Each manufacturer of nonbeverage products, upon filing a properly executed return on ATF Form 5630.5, together with the proper tax payment in the full amount due, shall be issued a special tax stamp designated "Manufacturer of Nonbeverage Products." This special tax stamp shall not be sold or otherwise transferred to another person (except as provided in §§ 17.71 and 17.72). If the Form 5630.5 with tax covers multiple locations, the taxpayer shall be issued one appropriately designated stamp for each location listed in the attachment to Form 5630.5 required by § 17.31(b), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

§ 17.52 Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer shall verify that he has one stamp for each location listed in his copy of the attachment to ATF Form 5630.5 required by § 17.31(b). He shall designate one stamp for each location and shall type on it the trade name (if different from the name in which the stamp was issued) and address of the business conducted at the location for which the stamp is designated. He shall then forward each stamp to the place of business designated on the stamp.

§ 17.53 Correction of errors on stamps.

(a) *Single location.* On receipt of a special tax stamp, the taxpayer shall examine it to ensure that the name and address are correctly stated. If an error has been made, the taxpayer shall return the stamp to ATF at the address shown thereon, with a statement showing the nature of the error and setting forth the proper name or address. On receipt of the stamp and statement, the data shall be compared with that on ATF Form 5630.5, and if an error on the part of ATF has been made, the stamp shall be corrected and returned to the taxpayer. If the Form 5630.5 agrees with the data on the stamp, the taxpayer shall be required to file a new Form 5630.5, designated "Amended Return," disclosing the proper name and address.

(b) *Multiple locations.* If an error is discovered on a special tax stamp obtained under the provisions of § 17.31(b), relating to multiple locations, and if the error concerns any of the information contained in the attachment to Form 5630.5, the taxpayer shall return the stamp, with a statement showing the nature of the error and the correct data, to his principal office. The data on the stamp shall then be compared with the taxpayer's copy of the attachment to Form 5630.5, retained at his principal office. If the error is in the name and address and was made by the taxpayer, the taxpayer shall correct the stamp and return it to the designated place of business. If the error was made in the attachment to Form 5630.5, the taxpayer shall file with ATF an amended Form 5630.5 and an amended attachment with a statement showing the error.

§ 17.54 Lost or destroyed stamps.

If a special tax stamp is lost or accidentally destroyed, the taxpayer shall immediately notify the regional director (compliance). On receipt of this notification, the regional director (compliance) shall issue to the taxpayer a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp." The taxpayer shall keep the certificate available for inspection in the same manner as prescribed for a special tax stamp in § 17.55.

§ 17.55 Retention of special tax stamps.

Taxpayers shall keep their special tax stamps at the place of business covered thereby for the period specified in § 17.170, and shall make them available for inspection by any ATF officer during business hours.

(Title II, sec. 201, Pub. L. 85–859, 72 Stat. 1348 (26 U.S.C. 5146))

Change in Location

§ 17.61 General.

A manufacturer who, during a tax year for which special tax has been paid, moves his place of manufacture to a place other than that specified in his special tax stamp, shall register the change with ATF within 90 days after he moves into the new premises, by executing a new return on ATF Form 5630.5, designated as "Amended Return." This Amended Return shall set forth the time of the move and the address of the new location. The

taxpayer shall also surrender his special tax stamp to ATF, for endorsement of the change in location.

(Title II, sec. 201, Pub. L. 85–859, 72 Stat. 1374 (26 U.S.C. 5143))

§ 17.62 Failure to register.

A person who moves his place of manufacture and fails to register the move with ATF, as required by § 17.61, shall pay a new special tax for the new location if a claim for drawback is filed on distilled spirits used at the new location during the tax year for which the original special tax was paid.

§ 17.63 Certificates in lieu of lost stamps.

The provisions of §§ 17.61 and 17.62 apply to certificates issued in lieu of lost or destroyed special tax stamps.

Change in Control

§ 17.71 General.

Certain persons, other than the person who paid the special tax, may qualify for succession to the same privileges granted by law to the taxpayer, to cover the remainder of the tax year for which the special tax was paid. Those who may qualify are specified in § 17.72. To secure these privileges, the successor or successors shall file with ATF, within 90 days after the date on which the successor or successors assume control, a return on ATF Form 5630.5, showing the basis of the succession.

§ 17.72 Right of succession.

Under the conditions set out in § 17.71, persons listed below have the right of succession:

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a taxpayer.

(b) A husband or wife succeeding to the business of his or her living spouse.

(c) A receiver or trustee in bankruptcy, or an assignee for the benefit of creditors.

(d) The members of a partnership remaining after the death or withdrawal of a general partner.

§ 17.73 Failure to register.

A person eligible for succession to the privileges of a taxpayer, in accordance with §§ 17.71 and 17.72, who fails to register his succession with ATF, as required by § 17.71, shall pay a new special tax if a claim for drawback is filed by him on distilled spirits used during the tax year for which the original special tax was paid.

§ 17.74 Certificates in lieu of lost stamps.

The provisions of §§ 17.71–73 apply to certificates issued in lieu of lost or destroyed special tax stamps.

§ 17.75 Formation of partnership or corporation.

If one or more persons who have paid special tax form a partnership or corporation, as a separate legal entity, to take over the business of manufacturing nonbeverage products, the new firm or corporation shall pay a new special tax in order to be eligible to receive drawback.

§ 17.76 Addition or withdrawal of partners.

(a) *General partners.* When a business formed as a partnership, subject to special tax, admits one or more new general partners, the new partnership shall pay a new special tax in order to be eligible to receive drawback. Withdrawal of general partners is covered by § 17.72(d).

(b) *Limited partners.* Changes in the membership of a limited partnersip, which require amendment of the certificate but not dissolution of the firm, are not changes that incur liability to additional special tax.

Change in Name or Style

§ 17.81 General.

A person who paid special tax is not required to pay a new special tax by reason of a mere change in the trade name or style under which the business is conducted, nor by reason of a change in management which involves no change in the proprietorship of the business.

§ 17.82 Change in capital stock?

A new special tax is not required by reason of a change of name or increase in the capital stock of a corporation, if the laws of the State of incorporation provide for such changes without creating a new corporation.

§ 17.83 Sale of stock.

A new special tax is not required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

Adjustment or Refund of Special Tax

§ 17.91 Change to higher rate.

A manufacturer of nonbeverage products who pays a special tax of $25 per tax year, and has filed or intends to file a claim or claims for drawback covering taxpaid distilled spirits in excess of 25 proof gallons used during the tax year for which the special tax was paid, shall pay special tax of $50 or $100, as the case may be, and obtain a stamp for the correct amount. On payment of the special tax at the higher rate, the manufacturer may surrender the special tax stamp showing payment of $25, with a claim for refund filed in accordance with § 17.94. Similar procedure governs a manufacturer of nonbeverage products who pays special tax of $50 and has filed or intends to file claim for drawback covering taxpaid distilled spirits used in excess of 50 proof gallons.

(68A Stat. 791 (26 U.S.C. 6402))

§ 17.92 Change to lower rate.

A manufacturer of nonbeverage products who pays special tax of $100 or $50 per tax year, and, during the tax year for which the special tax was paid, files claim or claims for drawback covering the use of not more than 50 or 25 proof gallons of taxpaid distilled spirits, may file a claim for refund in the amount of the difference between the special tax paid and the special tax due. The refund claim shall be filed in accordance with § 17.94.

(68A Stat. 791 (26 U.S.C. 6402))

§ 17.93 Absence of liability, refund of special tax.

The special tax paid may be refunded if it is established that the taxpayer did not file a claim for drawback for the period covered by the special tax stamp. If claim for drawback is filed, the special tax may be refunded if no drawback is paid or allowed for the period covered by the stamp.

§ 17.94 Filing of refund claim.

Claim for refund of special tax shall be filed on ATF Form 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes. The claim shall be filed with the regional director (compliance) for the region in which the place of manufacture is located. The claim shall set forth in detail sufficient reasons and supporting facts to inform the regional director (compliance) of the exact basis of the claims. The special tax stamp shall be attached to the claim.

(68A Stat. 791 (26 U.S.C. 6402))

§ 17.95 Time limit for filing refund claim.

A claim for refund of special tax shall not be allowed unless filed within three years after the payment of the tax.

(68A Stat. 808 (26 U.S.C. 6511))

Subpart E—Bonds and Consents of Sureties

§ 17.101 General.

Bond shall be filed by each person claiming drawback on a monthly basis. Persons who claim drawback on a quarterly basis are not required to file bonds. Bonds shall be prepared and executed on ATF Form 5530.3, Bond for Drawback Under 26 U.S.C. 5131, in accordance with the provisions of this part and the instructions printed on the

form. The bond requirement of this part shall be satisfied either by bonds obtained from authorized surety companies or by deposit of collateral security. Regional directors (compliance) are authorized to approve all bonds and consents of surety required by this part.

§ 17.102 Amount of bond.

The bond shall be a continuing one, in an amount sufficient to cover the total drawback to be claimed on spirits used during any quarter. However, the amount of any bond shall not exceed $200,000 nor be less than $1,000.

§ 17.103 Bonds obtained from surety companies.

(a) Bond may be obtained from any surety company authorized by the Secretary of the Treasury to become surety on Federal bonds. Surety companies so authorized are listed in the current revision of Department of the Treasury Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies), and subject to such amendatory circulars as may be issued from time to time. Bonds obtained from surety companies are also governed by the provisions of 31 U.S.C. 9304, and 31 CFR Part 223. A bond executed by two or more surety companies is the joint and several liability of the principal and the sureties; however, each surety company may limit its liability in terms upon the face of the bond in a definite, specified amount. This amount shall not exceed the limitations prescribed for each surety company by the Secretary, as stated in Department of the Treasury Circular 570. If the sureties limit their liability in this way, the total of the limited liabilities shall equal the required amount of the bond.

(b) Department of the Treasury Circular No. 570 is published in the **Federal Register** annually as of the first workday in July. As they occur, interim revisions of the circular are published in the **Federal Register**. Copies of the circular may be obtained from: Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20226.

(Sec. 1, Pub. L. 97–258, 96 Stat. 1047 (31 U.S.C. 9304))

§ 17.104 Deposit of collateral.

Except as otherwise provided by law or regulations, bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of bonds obtained from surety companies. Deposit of collateral security is governed by the provisions of 31 U.S.C. 9303, and 31 CFR Part 225.

(Sec. 1, Pub. L. 97–258, 96 Stat. 1046 (31 U.S.C. 9301, 9303))

§ 17.105 Filing of powers of attorney.

(a) *Surety companies.* The surety company shall prepare and submit with each bond, and with each consent to changes in the terms of a bond, a power of attorney authorizing the agent or officer who executed the bond or consent to act in this capacity on behalf of the surety. The regional director (compliance) who is authorized to approve the bond may, when he considers it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(b) *Principal.* The principal shall execute and file with the regional director (compliance) an ATF Form 1534 (5000.8), Power of Attorney, in accordance with the instructions on the form, for every person authorized to execute bonds on behalf of the principal.

(Sec. 1, Pub. L. 97–258, 96 Stat. 1047 (31 U.S.C. 9304, 9306))

§ 17.106 Consents of surety.

The principal and surety shall execute on ATF Form 1533 (5000.18), Consent of Surety, any consents of surety to changes in the terms of bonds. Form 1533 (5000.18) shall be executed with the same formality and proof of authority as is required for the execution of bonds.

§ 17.107 Strengthening bonds.

Whenever the amount of a bond on file and in effect becomes insufficient, the principal may give a strengthening bond in a sufficient amount, provided the surety is the same as on the bond already on file and in effect; otherwise a superseding bond covering the entire liability shall be filed. Strengthening bonds, filed to increase the bond liability of the surety, shall not be construed in any sense to be substitute bonds, and the regional director (compliance) shall not approve a strengthening bond containing any notation which may be interpreted as a release of any former bond or as limiting the amount of either bond to less than its full amount.

§ 17.108 Superseding bonds.

(a) The principal on any bond filed pursuant to this part may at any time replace it with a superseding bond.

(b) Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity continuing or liquidating the business of the principal, shall execute and file a superseding bond or obtain the consent of the surety or sureties on the existing bond or bonds.

(c) When, in the opinion of the regional director (compliance), the interests of the Government demand it, or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal snall file a superseding bond. A superseding bond shall be filed immediately in case of the insolvency of the surety. If a bond is found to be not acceptable or for any reason becomes invalid or of no effect, the principal shall immediately file a satisfactory superseding bond.

(d) A bond filed under this section to supersede an existing bond shall be marked by the obligors at the time of execution, "Superseding Bond." When such a bond is approved, the superseded bond shall be released as to transactions occurring wholly subsequent to the effective date of the superseding bond, and notice of termination of the superseded bond shall be issued, as provided in § 17.111.

Termination of Bonds

§ 17.111 General.

Bonds on ATF Form 5530.3 shall be terminated by the regional director (compliance), as to liability on drawback allowed after a specified future date, in the following circumstances:

(a) Pursuant to a notice by the surety as provided in § 17.112.

(b) Following approval of a superseding bond, as provided in § 17.108.

(c) Following notification by the principal of his intent to discontinue the filing of claims on a monthly basis.

However, the bond shall not be terminated until all outstanding liability under it has been discharged. Upon termination, the regional director (compliance) shall mark the bond "canceled," followed by the date of cancellation, and shall issue a notice of termination of bond. A copy of this notice shall be given to the principal and to each surety.

§ 17.112 Notice by surety of termination of bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and the regional director (compliance) in whose office the bond is on file that he desires, after a date named, to be relieved of liability under the bond. The date shall not be less than 60 days after the date the notice is received by the regional director (compliance). The surety shall deliver one copy of the notice to the principal and the original to the regional director (compliance). The surety shall also file with the regional director (compliance) an acknowledgment or other proof of service on the principal.

§ 17.113 Extent of release of surety from liability under bond.

Unless the notice prescribed by § 17.112 is withdrawn, in writing, before the date named in it, the notice shall take effect on that date. The rights of the principal as supported by the bond shall be terminated as of that date, and the surety shall be relieved from liability for drawback allowed on and after that date. Liability for drawback allowed prior to the date named in the surety's notice shall continue until the claims for such drawback have been properly verified by the regional director (compliance) according to law and this part.

§ 17.114 Release of collateral.

The release of collateral security pledged and deposited to satisfy the bond requirement of this part is governed by the provisions of 31 CFR Part 225. When the regional director (compliance) determines that there is no outstanding liability under the bond, and is satisfied that the interests of the Government will not be jeopardized, the security shall be released and returned to the principal.

(Sec. 1, Pub. L. 97-258, 96 Stat. 1046 (31 U.S.C. 9301, 9303))

Subpart F—Formulas and Samples

§ 17.121 Product formulas.

Except as provided in §§ 17.132 and 17.182, manufacturers shall file quantitative formulas for all preparations for which they intend to file drawback claims. These formulas shall be sent to the Alcohol and Tobacco Laboratory on ATF Form 5530.5, Formula and Process for Nonbeverage Products. Formulas shall be filed with the Alcohol and Tobacco Laboratory no later than 6 months after the end of the quarter in which taxpaid distilled spirits were first used to manufacture the product for purposes of drawback. Formulas shall state the quantity of each ingredient, and shall separately state the quantity of spirits to be recovered or to be consumed as an essential part of the manufacturing process. If a formula covers manufacture of the same product at more than one location, each such location shall be shown on Form 5530.5. The formulas shall be serially numbered by the manufacturer, commencing with number 1 and continuing thereafter in numerical sequence. New formulas for use at several plants shall be given a single number, which shall be the highest number next in sequence at any of those plants. One copy of each Form 5530.5 (for each place of manufacture listed thereon) shall be returned to the manufacturer. The formulas returned to manufacturers shall be filed in serial order at each place of manufacture listed thereon and shall be made available to ATF officers for examination in the investigation of drawback claims.

§ 17.122 Amended or revised formulas.

Amended or revised formulas are generally considered to be new formulas and shall be numbered accordingly. However, minor changes may be made to a current formula on ATF Form 5530.5 with retention of the original formula number, if approval is obtained from the Director. In order to obtain approval to make a minor formula change, the person holding the Form 5530.5 shall submit a letter of application to the Alcohol and Tobacco Laboratory, indicating the formula change and requesting that the proposed change be considered a minor change. Each such application shall clearly identify the original formula by number, date of approval, and name of product. The application shall indicate whether the product is, has been, or will be used in alcoholic beverages, and shall specify whether the proposed change is intended as a substitution or merely as an alternative for the original formula. No changes may be made to current formulas without specific ATF approval in each case.

§ 17.123 Statement of process.

The regional director (compliance) may at any time require any person claiming drawback under the regulations in this part to file a statement of process, in addition to that required by ATF Form 5530.5, as well as any other data necessary for consideration of the claim for drawback. When such additional data are required, the statement of process shall be submitted with copies of the commercial labels used on the finished products.

§ 17.124 Samples.

The Director, or the regional director (compliance), may at any time require any person claiming drawback or submitting a formula for approval under the regulations in this part to submit a sample of each nonbeverage or intermediate product for analysis. If the product is manufactured with a mixture of oil or other ingredients, the composition of which is unknown to the claimant, a 1-ounce sample shall be submitted with the sample of finished product when so required.

§ 17.125 Adoption of formulas and processes.

(a) *Adoption of predecessor's formulas.* If there is a change in the proprietorship of a nonbeverage manufacturer and the successor desires to use the predecessor's formulas, the successor may, in lieu of submitting new formulas in his own name, adopt any or all of the formulas of his predecessor by filing a notice of adoption with the regional director (compliance). The notice shall be filed with the first claim relating to any of the adopted formulas. The notice shall list the adopted formulas by serial number, and shall state that the products will be manufactured in accordance with the adopted formulas and processes. The manufacturer shall retain a copy of the notice with the related formulas.

(b) *Adoption of manufacturer's own formulas.* A manufacturer's own formulas may be adopted for use at another of the manufacturer's plants. Furthermore, a wholly owned subsidiary may adopt the formulas of the parent company, and vice versa. The procedure for such adoption shall be by filing a photocopy of each formula to be adopted with the regional director (compliance) for each region in which the manufacturer plans to use the adopted formula. The photocopy shall show the signature of the approving ATF official, and shall be filed no later than the time of filing of the first claim relating to the adopted formula.

§ 17.126 Formulas for intermediate products.

(a) The manufacturer shall submit a formula on ATF Form 5530.5 to the Alcohol and Tobacco Laboratory for each self-manufactured ingredient made with taxpaid spirits and intended for the manufacturer's own use in nonbeverage products, unless the formula for any such ingredient is fully expressed as part of the approved formula for each nonbeverage product in which that ingredient is used, or unless the formula for the ingredient is contained in one of

the pharmaceutical publications listed in § 17.132.

(b) Upon receipt of Form 5530.5 covering a self-manufactured ingredient made with taxpaid spirits, the formula shall be examined under § 17.131. If the formula is approved for drawback, the ingredient shall be treated as a finished nonbeverage product for purposes of this part, rather than as an intermediate product, notwithstanding its use by the manufacturer. (For example, see § 17.152(d).) If the formula is disapproved for drawback, the ingredient may be treated as an intermediate product in accordance with this part. Requirements pertaining to intermediate products are found in § 17.185(b).

§ 17.127 Self-manufactured ingredients treated optionally as unfinished nonbeverage products.

A self-manufactured ingredient made with taxpaid spirits, which otherwise would be treated as an intermediate product, may instead be treated as an unfinished nonbeverage product, if the ingredient's formula is fully expressed as a part of the approved formula for the nonbeverage product in which the ingredient will be used. A manufacturer desiring to change the treatment of an ingredient from "intermediate product" to "unfinished nonbeverage product" (or vice versa) may do so by resubmitting the applicable formula(s) on ATF Form 5530.5. Requirements pertaining to unfinished nonbeverage products are found in § 17.185(c).

Approval of Formulas

§ 17.131 Formulas on ATF Form 5530.5.

Upon receipt by the Alcohol and Tobacco Laboratory, formulas on ATF Form 5530.5 shall be examined and, if found to be medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for beverage purposes and which otherwise meet the requirements of law and this part, they shall be approved for drawback. If the formulas do not meet the requirements of the law and regulations for drawback products, they shall be disapproved.

§ 17.132 U.S.P., N.F., and H.P.U.S. preparations.

(a) *General.* Except as otherwise provided by regulation or ATF ruling, formulas for compounds in which alcohol is a prescribed ingredient, which are stated in the current revisions or editions of the United States Pharmacopoeia (U.S.P.), the National Formulary (N.F.), or the Homeopathic Pharmacopoeia of the United States (H.P.U.S.), shall be considered as approved formulas and may be used as formulas for drawback products without the filing of ATF Form 5530.5.

(b) *Exceptions.* Alcohol (including dehydrated alcohol), U.S.P.; alcohol and dextrose injection, U.S.P.; and tincture of ginger, H.P.U.S., have been found to be fit for beverage use and are disapproved for drawback. Further, all attenuations of other H.P.U.S. products diluted beyond one part in 10,000 ("4X") are also disapproved for drawback, unless the manufacturer receives approval for a formula submitted on ATF Form 5530.5 in accordance with this subpart. The formula shall be submitted with a sample of the product and a statement explaining why it should be classified as unfit for beverage use. (For incorporations by reference, see § 17.3.)

§ 17.133 Food product formulas.

Formulas for nonbeverage food products on ATF Form 5530.5 may be approved if they are unfit for beverage purposes. Examples of food products that have been found to be unfit for beverage purposes are stated in paragraphs (a) through (c) of this section:

(a) *Sauces.* Sauces, or syrups consisting of sugar solutions and liquors, in which the alcohol content is not more than 12 percent by volume and the sugar content is not less than 60 grams per 100 cubic centimeters.

(b) *Brandied fruits.* Brandied fruits consisting of solidly packaged fruits, either whole or segmented, and liquors not exceeding the quantity and alcohol content necessary for flavoring and preserving. Generally, brandied fruits will be considered to have met these standards if the alcohol in the liquid portion does not exceed 23 percent by volume, and the liquid portion does not exceed 45 percent of the volume of the container.

(c) *Other food products.* Food products such as mincemeat, plum pudding, and fruit cake, where only sufficient liquor is used for flavoring and preserving; and ice cream and ices where only sufficient liquor is used for flavoring purposes. Also food adjuncts, such as preservatives, emulsifying agents, and food colorings, that are unfit for beverage purposes and are manufactured and used, or sold for use, in food.

§ 17.134 Determination of unfitness for beverage purposes.

The Director has responsibility for determining whether products are fit or unfit for beverage purposes within the meaning of 26 U.S.C. 5131. This determination may be based either on the content and description of the ingredients as shown on ATF Form 5530.5, or on organoleptic examination. In such examination, samples of products may be diluted with water to an alcoholic concentration of 15% and tasted. Sale or use for beverage purposes may indicate fitness for beverage use.

§ 17.135 Use of specially denatured alcohol (S.D.A.).

(a) *Use of S.D.A. in nonbeverage or intermediate products*—(1) *General.* Except as provided in paragraph (b) of this section, the use of S.D.A. and taxpaid spirits in the same product by a nonbeverage manufacturer is prohibited where drawback of tax is claimed.

(2) *Alternative formulations.* No formula for a product on ATF Form 5530.5 shall be approved for drawback under this subpart if the manufacturer also has on file an approved ATF Form 1479–A or Form 5150.19, Formula for Article Made With Specially Denatured Alcohol or Rum, pertaining to the same product.

(b) *Use of S.D.A. in ingredients*—(1) *Purchased ingredients.* Generally, purchased ingredients containing S.D.A. may be used in nonbeverage or intermediate products. However, such ingredients shall not be used in medicinal preparations or flavoring extracts intended for internal human use, where any of the S.D.A. remains in the finished product.

(2) *Self-manufactured ingredients.* Self-manufactured ingredients may be made with S.D.A. and used in nonbeverage or intermediate products, so long as—

(i) No taxpaid spirits are used in manufacturing such ingredients; and

(ii) All S.D.A. is recovered or dissipated from such ingredients prior to their use in nonbeverage or intermediate products.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1372, as amended (26 U.S.C. 5273))

§ 17.136 Compliance with Food and Drug Administration requirements.

ATF will not consider a product to be a medicine, medicinal preparation, food product, flavor, or flavoring extract if its formula would violate a ban or restriction of the U.S. Food and Drug Administration (FDA) pertaining to such products. If FDA bans or restricts the use of any ingredient in such a way that further manufacture of the product in accordance with that formula would violate the ban or restriction, then the manufacturer shall be required to change the formula and resubmit it to the Alcohol and Tobacco Laboratory.

§ 17.137 Formulas disapproved for drawback.

A formula may be disapproved for drawback either because it does not prescribe appropriate ingredients in sufficient quantities to make the product unfit for beverage use, or because the product is neither a medicine, a medicinal preparation, a food product, a flavor, nor a flavoring extract. The formula for a disapproved product may be used as an intermediate product formula under § 17.126. No drawback will be allowed on distilled spirits used in a disapproved product, unless that product is later used in the manufacture of an approved nonbeverage product. In the case of a product that is disapproved, any further use or disposition of such a product, other than as an intermediate product in accordance with this part, subjects the manufacturer to the qualification requirements of Parts 1 and 19 of this chapter.

Subpart G—Claims for Drawback

§ 17.141 Drawback.

Upon the filing of a claim as provided in this subpart, drawback shall be allowed to any person who meets the requirements of this part. Drawback shall be paid at the rate specified by 26 U.S.C. 5134 on each proof gallon of distilled spirits on which the tax has been properly paid or determined at the distilled spirits rate and which have been used in the manufacture of nonbeverage products. The drawback rate is $1.00 less than the effective tax rate. Drawback shall only be allowed to the extent that the claimant can establish, by evidence satisfactory to the regional director (compliance), the actual quantity of taxpaid or tax-determined distilled spirits used in the manufacture of the product, and the effective tax rate applicable to those spirits. Special tax as a manufacturer of nonbeverage products shall be paid before drawback is allowed.

§ 17.142 Claims.

(a) *General.* The manufacturer shall file claim for drawback with the regional director (compliance) for the region in which the place of manufacture is located. A separate claim shall be filed for each place of business. Each claim shall pertain only to distilled spirits used in the manufacture or production of nonbeverage products during any one quarter of the tax year. Unless the manufacturer is eligible to file monthly claims (see §§ 17.143 and 17.144), only one claim may be filed for each quarter. The regional director (compliance) has the authority to approve or disapprove claims. Claims shall be filed on ATF For;s 2635 (5620.8), Claim—Alcohol—and Tobacco Taxes.

(b) *Manufacturers who are also proprietors of distilled spirits plants.* If a manufacturer of nonbeverage products is owned and operated by the same business entity that owns and operates a distilled spirits plant, the manufacturer's claim for drawback may be filed for credit on ATF Form 2635 (5620.8). When the claim is approved, the distilled spirits plant may use the claim as an adjustment decreasing the taxes due in Schedule B of ATF Form 5000.24, Excise Tax Return. This procedure may be utilized only if the manufacturer of nonbeverage products and the distilled spirits plant have the same employer identification number.

§ 17.143 Notice for monthly claims.

If the manufacturer has notified the regional director (compliance), in writing, of his intention to file claims on a monthly basis instead of a quarterly basis, and has filed a bond in compliance with the provisions of this part, claims may be filed monthly instead of quarterly. The election to file monthly claims shall not preclude a manufacturer from filing a single claim covering an entire quarter, or a single claim covering just two months of a quarter, or two claims (one of them covering one month and the other covering two months). An election for the filing of monthly claims may be withdrawn by the manufacturer by filing a notice to that effect, in writing, with the regional director (compliance).

§ 17.144 Bond for monthly claims.

Each person intending to file claims for drawback on a monthly basis shall file with the regional director (compliance) an executed bond on ATF Form 5530.3, conforming to the provisions of Subpart E of this part. A monthly drawback claim shall not be allowed until bond coverage in a sufficient amount has been approved by the regional director (compliance). When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims shall not be allowed until a strengthening or superseding bond in a sufficient amount is furnished.

§ 17.145 Date of filing claim.

Quarterly claims for drawback shall be filed with the regional director (compliance) within six months after the quarter in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products. Monthly claims for drawback may be filed at any time after the end of the month in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products, but shall be filed not later than the close of the sixth month succeeding the quarter in which the spirits were used.

§ 17.146 Information to be shown by the claim.

(a) The claim shall set forth the following:

(1) Whether the special tax has been paid.

(2) That the distilled spirits on which drawback is claimed were properly taxpaid or tax-determined at the distilled spirits rate.

(3) That the distilled spirits on which the drawback is claimed were used in the manufacture of nonbeverage products.

(4) Whether the nonbeverage products were manufactured in compliance with quantitative formulas approved under Subpart F of this part. (If not, attach explanation.)

(5) That the data submitted in support of the claim are correct.

(b) The manufacturer shall identify the month or months covered by the claim. The regional director (compliance) may require the manufacturer to separate the necessary data into the individual months covered by the claim.

§ 17.147 Supporting data.

(a) *General.* Each claim for drawback shall be accompanied by supporting data presented according to the format in paragraph (c) of this section (or according to any other suitable format which provides the same information). If certain lines or columns are not applicable to a manufacturing operation, then such lines or columns may be omitted. Quantities of spirits shall be shown in proof gallons; quantities of nonbeverage products shall be shown in wine gallons (except for nonliquid products).

(b) *Specific instructions.* The following instructions refer to the format presented in paragraph (c) of this section:

(1) Separate accounts under Part II shall be maintained for spirits taxpaid at different effective tax rates. However, spirits reported in column (c) may be combined in a single account, since such spirits are ineligible for drawback.

(2) In Part II, line 1, spirits "in process" are spirits contained in unfinished intermediate products or unfinished nonbeverage products, prior to the time of use of the spirits as determined under the principles of

§ 17.152. Spirits in process are distinguished by the source of the spirits; thus, spirits in process would appear in column (a) if the spirits had not been previously used, but would appear in column (d) if the spirits had come from intermediate products. No distinction is required between spirits "on hand" and spirits "in process."

(3) Any gain reported in columns (a), (b), or (d) of line 5 of Part II shall be reflected by an equivalent deduction from the amount of drawback claimed. Such a gain shall not be offset by losses in other columns.

(4) In column (b) of Part III, if a formula was adopted from another plant under § 17.125(b), the name of the plant at which the formula was first approved shall be shown in addition to the formula number. (If such an adopted formula was originally approved for use at more than one plant, only the plant listed in item 8 of the approved ATF Form 5530.5 need be shown.)

(5) If spirits taxpaid at more than one effective tax rate were used during the claim period in one nonbeverage product, then the number of proof gallons at each drawback rate shall be shown separately by subdividing columns (d) and (e) of Part III. (The drawback rate is $1.00 less than the effective tax rate.)

(6) Part IV shall contain a certification that the physical inventories required by § 17.167 were taken, and an explanation of any discrepancies in the distilled spirits account (Part II) disclosed thereby.

(c) *Format.*

BILLING CODE 4810-31-M

Supporting Data for Drawback Under 27 CFR Part 17

Name of Claimant _____	Period covered (Check one)
Address _____	___ Quarter ___ Month
_____	Ending _____

PART I - IDENTIFICATION OF SPECIAL TAX STAMP

Control Number (a)	Rate of Special Tax (b)	Expiration Date (c)

PART II - DISTILLED SPIRITS ACCOUNT (PROOF GALLONS)

Effective Tax Rate _____ (if other than $12.50/proof gallon)	Eligible Spirits Not Previously Used in Intermediate or Nonbeverage Products (a)	SPIRITS RECOVERED		Eligible Spirits Content of Intermediate Products (d)
		In the Manufacture of Intermediate Products (Eligible) (b)	In the Manufacture of Nonbeverage Products (Ineligible) (c)	
1. On Hand/In Process, Start of Period				
DURING PERIOD: 2. Received				
DURING PERIOD: 3. Recovered				
DURING PERIOD: 4. Produced				
5. Gain Disclosed by Closing Inventory				
6. Total to Account for (Add Lines 1-5)				
DURING PERIOD: 7. Used in Nonbeverage Products				
DURING PERIOD: 8. Used in Intermediate Products				
DURING PERIOD: 9. Otherwise Used (Not Subject to Drawback)				
10. Loss Disclosed by Closing Inventory				
11. On Hand/In Process, End of Period				
12. Total Accounted for (Add Lines 7-11)				

PART III - PRODUCTION OF NONBEVERAGE PRODUCTS

INFORMATION FROM ATF F 5530.5		Ineligible Recovered Spirits Used (proof gallons) (c)	ELIGIBLE SPIRITS USED		Finished Product Produced (wine gallons) (f)
Name and Description of Product (a)	Formula Number (or "NF," "USP," or "HPUS") (b)		Amount (proof gallons) (d)	Drawback Rate (if other than $11.50/proof gallon) (e)	
1.					
2.					
3.					

PART IV - ADDITIONAL AND EXPLANATORY INFORMATION

BILLING CODE 4810-31-C

§ 17.148 Allowance of claims.

(a) *General.* Except in the case of fraudulent noncompliance, no claim for drawback shall be denied for a failure to comply with either 26 U.S.C. 5131–5134 or the requirements of this part, if the claimant establishes that spirits on which the tax has been paid or determined were in fact used in the manufacture of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which were unfit for beverage purposes.

(b) *Penalty.* Noncompliance with the requirements of 26 U.S.C. 5131–5134 or of this part subjects the claimant to a civil penalty of $1,000 for each separate claim item, or the amount claimed on that item, whichever is less, unless the claimant establishes that the noncompliance was due to reasonable cause.

(c) *Reasonable cause.* Reasonable cause will be accepted as a defense to a civil penalty where a claimant establishes it exercised ordinary business care and prudence, and still was unable to comply with the statutory and regulatory requirements. Mere ignorance of law or regulations shall not be considered to be reasonable cause.

(Sec. 452, Pub. L. 98–369, 98 Stat. 819 (26 U.S.C. 5134(c))

Spirits Subject to Drawback

§ 17.151 Use of distilled spirits.

Distilled spirits are considered to have been used in the manufacture of a product under this part if the spirits are consumed in the manufacture, are incorporated into the product, or are determined by ATF to have been otherwise utilized as an essential part of the manufacturing process. However, spirits lost by causes such as spillage, leakage, breakage or theft, prior to or during the process of manufacture, are not considered to have been used in the manufacture of a product.

§ 17.152 Time of use of spirits.

(a) *General.* Distilled spirits shall be considered used in the manufacture of a product as soon as that product contains all the ingredients called for by its formula.

(b) *Spirits used in an ion exchange column.* Distilled spirits used in recharging an ion exchange column, the operation of which is essential to the production of a product, shall be considered to be used when the spirits are entered into the manufacturing system in accordance with the product's formula.

(c) *Products requiring additional processing or treatment.* Further manipulation of a product, such as aging or filtering, subsequent to the mixing together of all of its ingredients, shall not postpone the time when spirits are considered used, as determined under the principle in paragraph (a) of this section. This is true even if at the time of use there has not yet been a final determination of alcoholic content by assay. If, however, it is later found necessary to add more distilled spirits to standardize the product, such added spirits shall be considered as used in the period during which they were added.

(d) *Nonbeverage products used to manufacture other products.* Nonbeverage products may be used to manufacture other nonbeverage (or intermediate) products. However, such subsequent usage of a nonbeverage product shall not affect the time when the distilled spirits contained therein are considered used. When distilled spirits are used in the manufacture of a nonbeverage product, the time of use shall be determined by when that product first contains all of its prescribed ingredients, and such use shall not be determined by the time of any subsequent usage of that product in another product.

§ 17.153 Recovered spirits.

(a) *Recovery from intermediate products.* Eligible spirits recovered in the manufacture of intermediate products are not subject to drawback until such recovered spirits are used in the manufacture of a nonbeverage product. (However, see § 17.127 with respect to optional treatment of ingredients as unfinished nonbeverage products, rather than as intermediate products.) Spirits recovered in the manufacture of intermediate products shall be reused only in the manufacture of intermediate or nonbeverage products.

(b) *Recovery from nonbeverage products.* Distilled spirits recovered in the manufacture of a nonbeverage product are considered as used in the manufacture of that product and, if eligible, are subject to drawback when so used. Upon recovery, such spirits may be reused in the manufacture of nonbeverage products, but shall not be reused for any other purpose. When reused, such recovered distilled spirits are not again eligible for drawback and shall not be used in the manufacture of intermediate products.

(c) *Cross references.* For additional provisions respecting the recovery of distilled spirits and related recordkeeping requirements, see §§ 17.168 and 17.183.

§ 17.154 Spirits contained in intermediate products.

Spirits contained in an intermediate product are not subject to drawback until that intermediate product is used in the manufacture of a nonbeverage product.

§ 17.155 Spirits consumed in manufacturing intermediate products.

Spirits consumed in the manufacture of an intermediate product—which are not contained in the intermediate product at the time of its use in nonbeverage products—are not subject to drawback. Such spirits are not considered to have been used in the manufacture of nonbeverage products. However, see § 17.127 with respect to optional treatment of ingredients as unfinished nonbeverage products, rather than as intermediate products.

Subpart H—Records

§ 17.161 General.

Each person claiming drawback on taxpaid distilled spirits used in the manufacture of nonbeverage products shall maintain records showing the information as required in this subpart. No particular form is prescribed for the records required by this subpart, but the data required to be shown shall be clearly recorded and organized to enable ATF officers to trace each operation or transaction, monitor compliance with law and regulations, and verify the accuracy of each claim. Ordinary business records, including invoices and cost accounting records, are acceptable if they show the required information or are annotated to show any such information that is lacking. The records shall be kept complete and current at all times, and shall be retained by the manufacturer at the place covered by the special tax stamp for the period prescribed in § 17.170.

§ 17.162 Receipt of distilled spirits.

(a) *Distilled spirits received in tank cars, tank trucks, barrels, or drums.* For distilled spirits received in tank cars, tank trucks, barrels, or drums the manufacturer shall record, with respect to each shipment received—

(1) The date of receipt;

(2) The name and address of the person from whom received;

(3) The serial number or other identification mark (if any) of the tank car, tank truck, barrel, or drum;

(4) The name of the producer or warehouseman who paid or determined the tax;

(5) The effective tax rate (if other than $12.50 per proof gallon); and

(6) The kind, quantity, and proof of the spirits.

(b) *Distilled spirits received in bottles.* For distilled spirits received in bottles, the manufacturer shall record—

(1) The date of receipt;

(2) The name and address of the seller;

(3) The serial number of each case, if the bottles are received in cases;

(4) The name of the bottler;

(5) The effective tax rate (if other than $12.50 per proof gallon); and

(6) The kind, quantity, and proof of the spirits.

(c) *Distilled spirits received by pipeline.* For distilled spirits received by pipeline, the manufacturer shall record—

(1) The date of receipt;

(2) The name of the producer or warehouseman who paid or determined the tax;

(3) The effective tax rate (if other than $12.50 per proof gallon); and

(4) The kind, quantity, and proof of the spirits.

(d) *Determination of quantity.* At the time of receipt, each manufacturer shall determine (preferably by weight) and record the exact number of proof gallons of distilled spirits received. However, if the spirits are received in a tank car or tank truck and the result of the manufacturer's gauge of the spirits is within 0.2 percent of the number of proof gallons reported on the invoice covering the tax determination of the spirits, then the number of proof gallons reported on the invoice may be recorded as the quantity received. Nevertheless, the receiving gauge shall be noted on the record of receipt. If, for any shipment, the amount recorded in the manufacturer's records as the quantity received is greater than the amount shown on the invoice as taxpaid, a deduction equivalent to the excess shall be made from the amount of drawback claimed in the manufacturer's claim covering that period—or, if no claim is filed for that period, in the manufacturer's next claim. Losses in transit that exceed the 0.2 percent limitation provided in this paragraph shall be determined and noted on the record of receipt. Such losses shall not be recorded as distilled spirits received.

§ 17.163 Evidence of taxpayment of distilled spirits.

(a) *Shipments from distilled spirits plants.* A serially numbered commercial invoice or shipping document shall be obtained from the supplier with each shipment of taxpaid spirits from the bonded premises of a distilled spirits plant, and shall be kept by the manufacturer as evidence of taxpayment of the spirits. Each such invoice or shipping document shall bear a certification as to taxpayment by an agent or employee of the person who paid (or determined) the tax, as required by Part 19 of this chapter, and shall show the effective tax rate (if other than $12.50 per proof gallon) applicable to the shipment.

(b) *Purchases from wholesale and retail liquor dealers.* Manufacturers shall obtain commercial invoices or other documentation pertaining to purchases of distilled spirits made from wholesale and retail liquor dealers (including such operations when conducted in conjunction with a distilled spirits plant).

(c) *Imported spirits.* For imported spirits that were taxpaid through Customs, evidence of such taxpayment (such as Customs Forms 7501 and 7505, receipted to indicate payment of tax, and the certificate of wine content and flavors content, if applicable) shall be secured from the importer and retained by the manufacturer.

§ 17.164 Production record.

(a) *General.* Each manufacturer shall keep a production record for each batch of intermediate product and for each batch of nonbeverage product. The production record shall be an original record made at the time of production by a person having actual knowledge thereof. The record shall show the name and formula number of the product, the quantities of all ingredients used in the manufacture of the batch (including both eligible and ineligible spirits), the date when spirits were used in the manufacture of the batch (see § 17.152), the effective tax rate applicable to those spirits (if other than $12.50 per proof gallon), the quantity of product produced, and the alcohol content thereof. If the product was properly manufactured in compliance with a formula submitted on ATF Form 5530.5 or exempt from such submission under § 17.132, the production record need only show the usage of those ingredients which are listed in the product's formula, and the actual quantities of such ingredients used. If drawback is claimed on spirits consumed as an essential part of the manufacture of a nonbeverage product, but not contained in that product when completed, then the production record shall show the quantity of spirits so consumed in manufacture of each batch. If any product is produced by a continuous process rather than by batches, the production record shall pertain to the total quantity of that product produced during each claim period.

(b) *Determining quantity of distilled spirits used.* Each manufacturer shall accurately determine, by weight or volume, and record in his production records the number of proof gallons of all distilled spirits used. When the quantity used is determined by volume, adjustments shall be made if the temperature of the spirits is above or below 60 degrees Fahrenheit. A table for correction of volume of spirituous liquors to 60 degrees Fahrenheit, Table 7 of the "Gauging Manual," is available. See Subpart E of Part 30 of this chapter and § 30.67. Losses after receipt due to leakage, spillage, evaporation, or other causes not essential to the manufacturing process shall be accurately recorded in the manufacturer's permanent records at the time such losses are determined.

§ 17.165 Receipt of raw ingredients.

For raw ingredients destined to be used in nonbeverage or intermediate products, the manufacturer shall record, for each shipment received —

(a) The date of receipt;

(b) The quantity received; and

(c) The identity of the supplier.

§ 17.166 Disposition of nonbeverage products.

(a) *Shipments.* For each shipment of nonbeverage products, the manufacturer shall record —

(1) The formula number of the product;

(2) The date of shipment;

(3) The quantity shipped; and

(4) The identity of the consignee.

(b) *Other disposition.* For other dispositions of nonbeverage products, the manufacturer shall record —

(1) The type of disposition;

(2) The date of disposition; and

(3) The quantity of each product so disposed of.

(c) *Exception.* The manufacturer need not keep the records required by paragraphs (a) and (b) of this section for any nonbeverage product which either—

(1) Contains less than 3 percent of distilled spirits by volume, or

(2) Is sold by the producer directly to the consumer in retail quantities.

However, when needed for protection of the revenue, the regional director (compliance) may at any time require the keeping of these records upon at least five days' notice to the manufacturer.

§ 17.167 Inventories

(a) *Distilled spirits.* The "on hand/in process" figures reported in Part II of the supporting data required by § 17.147 shall be verified by physical inventories

taken as of the end of each claim period for which a claim is filed. Spirits taxpaid at different effective tax rates shall be inventoried separately. Details of the inventories (when taken, by whom taken, subtotals for each product inventoried) shall be retained with the manufacturer's records. The manufacturer shall explain in Part IV of the supporting data any discrepancy between the amounts on hand as disclosed by physical inventory and the amounts indicated by the manufacturer's records. Any gain in eligible spirits disclosed by inventory requires a deduction from the claim with which the inventory is reported (see § 17.147(b)(3)). If no claim is filed, then no physical inventory is required for that claim period.

(b) *Raw ingredients and nonbeverage products.* When necessary for ensuring compliance with regulations and protection of the revenue, the regional director (compliance) may require a manufacturer to take physical inventories of finished nonbeverage products, and/or raw ingredients intended for use in the manufacture of nonbeverage or intermediate products. The results of such inventories shall be recorded in the manufacturer's records. Any discrepancy between the amounts on hand as disclosed by physical inventory and such amounts as indicated by the manufacturer's records shall also be recorded with an explanation of its cause.

§ 17.168 Recovered spirits.

Each manufacturer intending to recover distilled spirits under the provisions of this part shall notify the regional director (compliance) of his intention to do so and shall advise him of where the operations will be conducted. The manufacturer shall keep a record of the distilled spirits recovered and the subsequent use to which such spirits are put. The record shall show—

(a) The date of recovery;

(b) The commodity or process from which the spirits were recovered;

(c) The amount (proof gallons) of distilled spirits recovered;

(d) The amount (proof gallons) of recovered distilled spirits reused;

(e) The commodity in which the recovered distilled spirits were reused; and

(f) The date of reuse.

§ 17.169 Transfer of intermediate products.

If intermediate products are transferred as permitted by § 17.185, supporting records of such transfers shall be kept at the shipping and receiving plants, showing the date and quantity transferred.

§ 17.170 Retention of Record.

Each manufacturer shall retain for a period of not less than 3 years all records required by this part, a copy of all claims and supporting data filed in support thereof all commercial invoices or other documents evidencing taxpayment or tax-determination of domestic spirits, all documents evidencing taxpayment of imported spirits, and all bills of lading received which pertain to shipments of spirits. In addition, a copy of each formula submitted on ATF Form 5530.5 shall be retained at each factory where the formula is used, for not less than 3 years from the date of filing of the last claim for drawback under the formula. A copy of an approval to use an alternate method or procedure shall be retained as long as the manufacturer empoys the method or procedure, and for 3 years thereafter. Further, the regional director (compliance) may require these records, forms, and documents to be retained for an additional period of not more than 3 years in any case where he deems such retention to be necessary or advisable for protection of the revenue.

§ 17.171 Inspection of records.

All of the records, forms, and documents required to be retained by § 17.170 shall be kept at the place covered by the special tax stamp and shall be readily available during the manufacturer's regular business hours for examination and copying by ATF officers. At the same time, any other books, papers, records or memoranda in the possession of the manufacturer, which have a bearing upon the matters required to be alleged in a claim for drawback, shall be available for inspection by ATF officers.

(Sec. 5133, 68A Stat. 623 (26 U.S.C. 5133); sec. 201, Pub. L. 85–859, 72 Stat. 1348 (26 U.S.C. 5146))

Subpart I—Miscellaneous Provisions

§ 17.181 Exportation of medicinal preparations and flavoring extracts.

Medicinal preparations and flavoring extracts, approved for drawback under the provisions of this part, may be exported subject to 19 U.S.C. 1313(d), which authorizes export drawback equal to the entire amount of internal revenue tax found to have been paid on the domestic alcohol used in the manufacture of such products. (Note: Export drawback is not allowed for imported alcohol under this provision of customs law.) Claims for such export drawback shall be filed in accordance with the applicable regulations of the U.S. Customs Service. Such claims may cover either the full rate of tax which has been paid on the alcohol, if no nonbeverage drawback has been claimed thereon, or else the remainder of the tax if nonbeverage drawback under 26 U.S.C. 5134 has been or will be claimed.

§ 17.182 Drawback claims by druggists.

Drawback of tax under 26 U.S.C. 5134 is allowable on taxpaid distilled spirits used in compounding prescriptions by druggists who have paid the special tax prescribed by 26 U.S.C. 5131. The prescriptions so compounded shall be shown in the supporting data by listing the first and last serial numbers thereof. The amount of taxpaid spirits used in each prescription need not be shown, but such prescriptions shall be made available for examination by ATF officers. If refills have been made of prescriptions received in a previous quarter, their serial numbers shall be recorded separately. Druggists claiming drawback as authorized by this section are subject to all the applicable requirements of this part, except those requiring the filing of quantitative formulas.

§ 17.183 Disposition of recovered alcohol and material from which alcohol can be recovered.

(a) *General.* Manufacturers of nonbeverage products shall not sell or transfer recovered alcohol to any other premises. Further, material from which alcohol can be recovered shall not be sold or transferred unless the alcohol has been removed or an appropriate substance has been added to prevent recovery of residual alcohol. Material from which alcohol can be recovered may also be destroyed on the manufacturer's premises by a suitable method. Except as provided in paragraph (b) of this section, prior written approval shall be obtained from the regional director (compliance) as to the adequacy, under this section, of any substance proposed to be added or of any proposed method of destruction.

(b) *Spent vanilla beans.* Spent vanilla beans containing residual alcohol may be destroyed on the manufacturer's premises by burning, or they may be removed from those premises after treatment with sufficient kerosene, mineral spirits, rubber hydrocarbon solvent, or gasoline to prevent recovery of residual alcohol, without specific approval from the regional director (compliance).

§ 17.184 Distilled spirits container marks.

All marks required by Part 19 of this chapter shall remain on containers of taxpaid distilled spirits until the contents are emptied. Whenever such a container is emptied, such marks shall be completely obliterated.

(Sec. 454, Pub. L. 98–369, 98 Stat. 820 (26 U.S.C. 5206(d)))

§ 17.185 Requirements for intermediate products and unfinished nonbeverage products.

(a) *General.* Self-manufactured ingredients made with taxpaid spirits may be accounted for either as intermediate products or as unfinished nonbeverage products. The manufacturer may choose either method of accounting for such self-manufactured ingredients (see § 17.127). However, his choice of method determines the requirements that will apply to those ingredients, as prescribed in paragraphs (b) and (c) of this section.

(b) *Intermediate products.* Intermediate products shall be used exclusively in the manufacture of nonbeverage products. Intermediate products may be accumulated and stored indefinitely and may be used in any nonbeverage product whose formula calls for such use. Intermediate products shall be manufactured by the same entity that manufactures the finished nonbeverage products. Intermediate products shall not be sold or transferred between separate and distinct entities. However, they may be transferred to another branch or plant of the same manufacturer, for use there in the manufacture of approved nonbeverage products. For the purposes of this section, the phrase "separate and distinct entities" includes parent and subsidiary corporations, regardless of any corporate (or other) relationship, and even if the stock of both the manufacturing firm and the receiving firm are owned by the same persons.

(c) *Unfinished nonbeverage products.* An unfinished nonbeverage product shall only be used in the particular nonbeverage product for which it was manufactured, and shall be entirely so used within the time limit stated in item 7 of the approved ATF Form 5530.5. Spirits dissipated or recovered in the manufacture of unfinished nonbeverage products shall be regarded as having been dissipated or recovered in the manufacture of nonbeverage products. Spirits contained in such unfinished products shall be accounted for in the supporting data under § 17.147 and inventoried under § 17.167 as "in process" in nonbeverage products. Production of unfinished nonbeverage products shall be recorded as part of the production records for the applicable nonbeverage products. Unfinished nonbeverage products shall not be transferred to other premises.

§ 17.186 Transfer of distilled spirits to other containers.

A manufacturer may transfer taxpaid distilled spirits from the original package to other containers at any time for the purpose of facilitating the manufacture of products unfit for beverage use. Containers into which distilled spirits have been transferred under this section shall bear a label identifying their contents as taxpaid distilled spirits, and shall be marked with the serial number of the original package from which the spirits were withdrawn.

§ 17.187 Discontinuance of business.

A nonbeverage product manufacturer who discontinues business may sell his entire stock of taxpaid distilled spirits on hand in a single sale without qualifying as a wholesaler under Part 1 of this chapter or paying special tax as a liquor dealer under Part 194 of this chapter. The manufacturer likewise may return the distilled spirits to the person from whom purchased, or he may destroy the spirits or give them away.

Paragraph B. The regulations in 27 CFR Part 19 are amended as follows:

PART 19—[AMENDED]

1. The authority citation for Part 19 is revised to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

2. The table of sections is amended to reflect the addition of §§ 19.51 and 19.52 and the related undesignated center heading, and the removal of § 19.69, as follows:

* * * * *

Subpart D—Administrative and Miscellaneous Provisions

Activities Not Subject to this Part

19.51 Recovery and reuse of denatured spirits in manufacturing processes.
19.52 Use of taxpaid distilled spirits to manufacture products unfit for beverage use.

Authorities of the Director

* * * * *

19.69 [Reserved]

* * * * *

3. A new undesignated center heading and two new sections, §§ 19.51–52, are added. Section 19.51 contains the material formerly found in § 19.69, while § 19.52 contains material formerly round in Subpart U of 27 CFR Part 170. As added, the new undesignated center heading and §§ 19.51 and 19.52 read as follows:

Activities Not Subject to this Part

§ 19.51 Recovery and reuse of denatured spirits in manufacturing processes:

The following persons are not, by reason of the activities listed below, subject to the provisions of this part, but they shall comply with the provisions of Part 20 of this chapter relating to the use and recovery of spirits or denatured spirits:

(a) Manufacturers who use denatured spirits, or articles or substances containing denatured spirits, in a process wherein any part or all of the spirits, including denatured spirits, are recovered.

(b) Manufacturers who use denatured spirits in the production of chemicals which do not contain spirits but which are used on the permit premises in the manufacture of other chemicals resulting in spirits as a by-product.

(c) Manufacturers who use chemicals or substances which do not contain spirits or denatured spirits (but which were manufactured with specially denatured spirits) in a process resulting in spirits as a by-product.

(Sec 201, Pub. L. 85–859, 72 Stat. 1372, as amended (26 U.S.C. 5273))

§ 19.52 Use of taxpaid distilled spirits to manufacture products unfit for beverage use.

(a) *General.* Apothecaries, pharmacists, anc manufacturers are not required to qualify as processors under 26 U.S.C. 5171 before manufacturing or compounding the following products, if the tax has been paid or determined on all of the distilled spirits contained therein:

(1) Medicines, medicinal preparations, food products, flavors, and flavoring extracts, conforming to the standards for approval of nonbeverage drawback products found in §§ 17.131–17.137 of this chapter, whether or not drawback is actually claimed on those products. Except as provided in paragraph (c) of this section, a formula need not be submitted if drawback is not desired.

(2) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

(3) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

(4) Laboratory reagents, stains, and dyes that are unfit for use for beverage purposes.

(5) Flavoring extracts, syrups, and concentrates that are unfit for use for beverage purposes.

(b) *Products classed as liquors.* Products specified under Part 17 of this chapter as being fit for beverage use are held to be liquors. Bitters, patent medicines, and similar alcoholic preparations which are fit for beverage purposes, although held out as having certain medicinal properties, are also classed as liquors. Such products are required to be manufactured on the bonded premises of a distilled spirits plant, and are subject to the provisions of this part.

(c) *Formulas and samples; when required.* On request of the Director, or when in doubt as to the classification of a product, the manufacturer shall submit to the Director the formula for and a sample of the product for examination to verify the manufacturer's claim of exemption from qualification requirements.

(d) *Change of formula; when required.* If the regional director (compliance) finds at any time that any product manufactured under this section as an unfit product is being used for beverage purposes, or for mixing with beverage liquors other than by a processor, he shall notify the manufacturer to desist from manufacturing the product until the formula is changed to make the product not susceptible of beverage use and the change is approved by the Director. However, the provisions of this paragraph shall not prohibit the use of unfit products in small quantities for flavoring drinks at the time of serving for immediate consumption. Where, pursuant to notice, the manufacturer does not desist, or the formula is not so modified as to make the product unsusceptible of beverage use, the manufacturer shall immediately qualify as a processor.

(Sec. 805, Pub. L. 96–39, 93 Stat. 275, 278 (26 U.S.C. 5002, 5171))

§ 19.69 [Removed]

4. Section 19.69 is removed.

Paragraph C. The regulations in 27 CFR Part 170 are amended as follows:

PART 170—[AMENDED]

1. The authority citation for Part 170 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5064, 5202, 5291, 5301, 5362, 7805; 31 U.S.C. 9304, 9306.

2. The table of sections is revised to reflect the removal of Subpart U, as follows:

* * * * *

170.311 Penalties.

Subparts P–Y—[Reserved]

Subpart Z—Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use

* * * * *

§§ 170.611 through 170.618 [Removed]

3. Subpart U, consisting of §§ 170.611 through 170.618, is removed.

Paragraph D. The regulations in 27 CFR Part 194 are amended as follows:

PART 194—[AMENDED]

1. The authority citation for Part 194 is revised to read as follows:

Authority: 5 U.S.C. 552; 26 U.S.C. 5001, 5002, 5111–5124, 5124, 5142, 5143, 5145, 5146, 5202, 5206, 5207, 5301, 5352, 5555, 5613, 5681, 5691, 6001, 6011, 6061, 6065, 6071, 6091, 6109, 6311, 6314, 6402, 6511, 6601, 6621, 6651, 6657, 6676, 7011, 7805.

§ 194.33 [Amended]

§ 194.191 [Amended]

2. The cross references in §§ 194.33(b) and 194.191(a) are amended to conform to the other amendments made by this document, by replacing the words "Part 170" with the words "§ 19.52."

PART 197—[REMOVED]

Paragraph E. Title 27 CFR Part 197 is removed.

Signed: June 9, 1987.

W.T Drake,

Acting Director.

Approved: July 6, 1987.

Francis A. Keating II,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 87–16960 Filed 7–28–87; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Permanent State Regulatory Program for Illinois

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period on its intention to remove one condition of the Secretary of Interior's approval of the Illinois permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Condition 913.11(c) concerned the use of siltation structures other than sedimentation ponds in Illinois. This notice sets forth the times and locations that the Illinois program is available for public inspection and the comment period during which interested persons may submit written comments on the removal of condition 913.11(c).

DATES: Written comments, data, or other relevant information relating to the removal of condition 913.11(c) not received on or before 4:00 P.M. August 28, 1987 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand-delivered to James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Room 20, Springfield, Illinois 62701.

Copies of the Illinois program and all written comments received in response to this notice will be available for review at the OSMRE Field Office listed above and at the OSMRE and State regulatory authority offices listed below, Monday through Friday, 8:30 a.m. to 4:00 p.m., excluding holidays.

Office of Office of Surface Mining, Reclamation and Enforcement, Room 5131, 1100 L Street NW., Washington, DC 20240.

Illinois Department of Mines and Minerals, Land reclamation Division, 227 South Seventh Street, Room 201, Springfield, Illinois 62706.

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

SUPPLEMENTARY INFORMATION: The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the condition of approval of the Illinois program can be found in the June 1, 1982 **Federal Register** (47 FR 23858—23883).

In accepting the Secretary's conditional approval, Illinois agreed to satisfy condition 913.11(c) by June 1, 1983. The deadline has been extended several times by mutual agreement between the Secretary and the State as

the result of Federal and State litigation which would impact the condition.

OSMRE's September 26, 1983 rulemaking established new requirements for siltation structures (48 FR 43956). At 30 CFR 816.46(b)(2) and 817.46(b)(2), OSMRE required that all surface drainage from a disturbed area be passed through a siltation structure. In Section 816.46(a) and 817.46(b)(2), OSMRE defined a siltation structure to be a sedimentation pond, a series of sedimentation ponds or other treatment facility. Other treatment facilities were defined in those sections to include any that have a point source discharge and are used to prevent additional contribution of suspended solids to stream flow or runoff outside the permit area. This requirement was adopted in order to implement Sections 515(b)(10)(B) and 516(b)(9)(B) of the Act, which mandate the use of the "best technology currently available (BTCA)" to prevent additional contributions of suspended solids to streamflow or runoff outside the permit area.

At the time of Illinois program approval sediment ponds alone were considered as BTCA.

Condition 913.11(c) was imposed to require that Illinois would not utilize provisions in the Illinois program which allowed for alternatives to sediment ponds under the Illinois definition of sediment control structure.

The United States District Court for the District of Columbia on July 15, 1985 ruled that the September 26, 1983 preamble to the Federal rule failed to articulate a reason for requiring siltation structures in every instance.

The District Court noted that evidence in the OSMRE record pointing to negative impacts of siltation structures was dismissed without reasoned analysis. The Court stated further that in the face of recognized problems, OSMRE failed to support the statement that siltation ponds were BTCA. Based upon these findings the Federal rules were remanded by the the District Court.

As a result of the definition of BTCA contained in Section 701.5 of the Federal rules is controlling. That definition clearly indicates that BTCA is to be determined by the regulatory authority on a case-by-case basis.

The Illinois definition of BTCA is the same as Section 701.5 of the Federal regulations.

The full text of Illinois rule 1816.42(a)(1) which required the imposition of condition 913.11(c) follows:

Section 1816.42 Hydrologic balance: Water quality standards and effluent limitations. (a)(1) All surface drainage from the disturbed area shall be passed through a siltation structure or series of siltation structures before leaving the permit area. Siltation structures and treatment facilities shall be maintained until the quality of the untreated drainage from the disturbed area meets the applicable State and Federal water quality requirements for the receiving streams; the operator completes backfilling, grading and drainage control on the disturbed area; and permanent species of vegetation have been established on the disturbed area. When the siltation structure is removed, the area from which it is removed shall be graded and vegetated.

As a result of the remand and interpretation by the United States District Court of the relationship between siltation structures and BTCA, OSMRE believes Illinois rules are consistent with the Federal rules and condition of approval 913.11(c) can therefore be removed. The current Illinois rules provide for the use of siltation structures which result in outflows that meet applicable effluent standards.

The Director now seeks public comment on the removal of condition 913.11(c) and the implementation of the Illinois rule 1816.42(a)(1).

Additional Determinations

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

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

The Department of the Interior has determined that the removal of this condition would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 801 et seq.). This change would not impose any new requirements: rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

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

List of Subjects in 30 CFR Part 913

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

Date: July 17, 1987.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 87-17218 Filed 7-28-87; 8:45 am]

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30 CFR Part 917

Reopening of the Public Comment Period on a Modification to the Kentucky Permanent Regulatory Program

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

ACTION: Reopening of comment period.

SUMMARY: OSMRE is reopening the public comment period on the substantive adequacy of certain program amendments submitted by the Commonwealth of Kentucky to modify the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to stream buffer zones and backfilling and grading of underground mine face-up areas.

This notice sets forth the times and locations that the Kentucky program and the proposed amendments are available for public inspection and the comment period during which interested persons may submit written comments on the proposed program elements.

DATES: Written comments not received on or before August 13, 1987, will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand deliverd to: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington, Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233-7237.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky program, the proposed modifications to program, and all written comments received in response to this notice will be available for review at the OSMRE Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504;

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 L Street NW., Washington, DC 20240;

Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow Road, Hudson Hollow Office Park, Frankfort, Kentucky 40601.

Pursuant to 30 CFR 732.17(h)(2)(ii), each requestor may receive, free of charge, one single copy of the proposed amendment by contacting OSMRE's Lexington Field Office listed under "**ADDRESSES.**"

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanation in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Lexington, Kentucky Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

II. Background on the Kentucky State Program

On April 13, 1982, the Secretary approved the Kentucky program. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435). Information pertinent to the general background on the Kentucky State Program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 19, 1982 **Federal Register** notice. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16 and 917.17.

III. Submission of Program Amendments

On February 27, 1987, the Kentucky Natural Resources and Environmental Protection Cabinet (NREPC) submitted to OSMRE, pursuant to 30 CFR 732.17, certain revisions to the Kentucky regulatory program (Administrative Record No. KY–730). The revisions were intended to address the required amendments at 30 CFR 917.16(d), concerning stream buffer zones and underground mine face-up areas.

On March 27, 1987, OSMRE announced receipt of the rules and opportunity for public comment and a public hearing (52 FR 9890). The public comment period closed April 27, 1987. The public hearing scheduled for April 21, 1987, was not held because no one requested an opportunity to testify.

On June 11, 1987, OSMRE sent a letter to Kentucky outlining some concerns with the proposed amendments and offering an opportunity for Kentucky to submit additional modification to or explanation of its rules. On July 10, 1987, Kentucky submitted modified amendments along with additional explanation (Administrative Record No. KY–743). The concerns expressed in OSMRE's letter and addressed in Kentucky's resubmission are listed briefly below:

1. OSMRE was concerned that the proposed Kentucky rules at 405 16:060 and 18:060 section 11(1)(b) would protect only against long-term effects on water quantity or quality of intermittent or perennial streams, while the Federal rules at 30 CFR 816.57(a)(1) and 817.67(a)(1) do not distinguish between short-term and long-term effects.

2. OSMRE was concerned that the proposed Kentucky rules at 405 KAR 16:060 and 18:060 section 11(1)(c) which protect against "long-term detrimental effects on other valuable environmental resources, as determined by the cabinet," may be less effective than the Federal rules at 30 CFR 816.57(a)(1) and 817.57(a)(1) which do not restrict consideration of adverse environmental effects to the long term and do not modify the term "environmental resources."

3. OSMRE required assurance that the amended rules would apply to all permits approved on or after the effective date of OSMRE approval.

Kentucky's resubmission contains modifications and explanations intended to address OSMRE's concerns. Therefore, OSMRE is reopening the public comment period for fifteen days to allow public comment on the proposed program amendments as modified. Comments should specifically address the issues of whether the amendments are in accordance with SMCRA and no less effective than its implementing regulations.

List of Subjects in 30 CFR Part 917

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

Date: July 24, 1987.

Arthur W. Abbs,

Acting Assistant Director, Program Policy.

[FR Doc. 87–17219 Filed 7–28–87; 8:45 am]

BILLING CODE 4310–05–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket RM 87–4]

Registration and Deposit of Computer Screen Displays; Public Hearing

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of public hearing.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is reviewing its registration and deposit practices for computer screen displays. The Office will examine current policies and practices, and will specifically consider two questions: first, whether or not the Office should register any screen displays separately from the underlying computer programs that generate them; and, second, what the Office should require as the deposit if any registration is made for screen displays either separately or as part of a computer program. This notice invites participation in a public hearing intended to elicit comments, views, and information that will assist the Office in this review of its registration procedures. Written comments are also solicited. The Office particularly invites comment from or participation by computer programming experts and professors of law and computer science.

DATES: The hearing will be held on September 9, 1987 in Washington, DC. Anyone desiring to testify should contact the Office of the General Counsel, Copyright Office at (202) 287–8380 by August 28, 1987. Ten copies of written statements should be submitted to the Copyright Office by 4:00 p.m. on September 4, 1987, if possible, and in any case no later than September 9, 1987. Written comments are also invited by October 9, 1987, from persons who do not wish to testify.

ADDRESSES: Hearing location: The hearing will be held on September 9, 1987 in the Mumford Room of the James Madison Memorial Building, LM–649, sixth floor, Library of Congress, First and Independence Avenue, SE., Washington, DC, beginning at 9:30 a.m.

Ten copies of written statements, supplementary statements, or comments should be submitted as follows:

If sent by mail: Library of Congress, Department 100, Washington, DC 20540.

If delivered by hand: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

All requests to testify should clearly identify the individual or group desiring to testify.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, (202) 287–8380.

SUPPLEMENTARY INFORMATION: Original computer programs are works of authorship protected by copyright, whether they are in high level computer language (source code) or machine language (object code), *Williams Electronics, Inc.* v. *Artic International, Inc.*, 685 F.2d 870 (3d Cir. 1982); and, since 1964, the Copyright Office has registered computer programs as literary works. Section 101 of the Copyright Act of 1976, title 17 of the United States Code, defines a computer program as "a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result." Copyright registration is made for original computer programs in the literary work classification upon submission of an appropriate application, fee, and deposit copies identifying the work. In general, the first 25 pages or the equivalent and the last 25 pages or the equivalent of computer source code should be deposited in seeking registration. 37 CFR 202.20(c)(2)(vii).

The Copyright Act also provides that "[i]n no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work." 17 U.S.C. 102(b).

The courts have held in several videogame cases that pictorial and graphic screen displays can be copyrighted as audiovisual works, independently of the computer program that generates them. *M. Kramer Manufacturing Co., Inc.* v. *Andrews*, 783 F.2d 421 (4th Cir. 1986); *Williams Electronics, Inc.* v. *Artic International, Inc.*, 685 F.2d 870 (3d Cir. 1982); *Stern Electronics, Inc.* v. *Kaufman*, 669 F.2d 852 (2d Cir. 1982).

Consistent with these videogame precedents, the Copyright Office has registered separately pictorial screen displays that meet the ordinary standard of original, creative authorship. Under present practices, however, the Office does not register separately textual screen displays, reasoning that there is no authorship in ideas, or the format or arrangement of text, and that any literary authorship in the screen display would presumably be covered by the underlying computer program—itself a literary work.

Judicial decisions are split on the copyrightability of screen displays and lend no clear guidance. One court has held that protection of computer programs extends only to source and object code and not to input formats. *Synercom Technology, Inc.* v. *University Computing Company*, 462 F.Supp. 1003 (N.D. Tex. 1978). Others have protected the structure, sequence and organization of business-related programs, including the text and artwork of their audiovisual displays. *Broderbund Software, Inc.* v. *Unison World, Inc.*, 648 F.Supp. 1127 (N.D. Cal. 1985); *Whelan Associates, Inc.* v. *Jaslow Dental Laboratory, Inc.*, 797 F.2d 1222 (3d Cir. 1986). Most recently, in *Digital Communications Associates, Inc.* v. *Softklone Distributing Corp.*, Civ. No. 86–128–A ¶ 26,088 Copyright Law Rptr. (CCH) (N.D. Ga. 1987), a court held the copyright in a computer program does not extend to the screen displays, but also held valid a separately registered menu screen based on compilation of terms.

The Office is receiving an increased number of claims to register textual and pictorial screen displays separate from the underlying programs that generate them. These claims present registration issues about which the Office must make registration determination pursuant to its examination function under the Copyright Act, 17 U.S.C. 410. The Office must decide whether or not to register. If we register, we must develop practices covering acceptable statements of claims on the applications and the nature of acceptable deposit material. The Office currently processes applications regarding computer screen displays in accordance with the practices noted above. It is aware that screen displays involve complex issues, and is concerned about the validity of current registration practices in light of the *Digital Communications* case, especially.

The Office is considering modification of existing practices. For example, we have considered expanding the deposit requirement for computer programs to allow the optional deposit of material covering the screen displays explicitly, whether the display is pictorial or textual. Before making any adjustments of registration practices, the Office concluded that it should receive public comment and elicit information about the computer screen displays.

Accordingly, the Copyright Office will hold a public hearing on September 9, 1987 for the purpose of eliciting comment on the proper procedures for the registration, if appropriate, and deposit of computer screen displays.

The Office would like to receive as much information as possible about the science and art of generating screen displays by operating a computer. For this reason we particularly solicit comment from computer programming experts about the creation of computer programs and screen display materials, and the relationship between the program and the material displayed. We also solicit comment from law professors and other members of the public about the range of legal issues involved in registration and deposit of computer screen displays. Comments are specifically invited in the following areas:

(1) Should a screen display be registered separately from the underlying computer program that generates it under any circumstances?

(2) If the response to question one is yes, specify the circumstances under which separate registration should be made.

(3) Should a distinction be made between the registration of a textual and a pictorial display?

(4) What should be the appropriate deposit if any registration is made, either as part of a computer program registration or separately?

(5) What is the relationship between a computer program and the generation of a screen display? Describe the technology and methods of creating the displays.

(6) Can completely different computer program codes produce a substantially similar screen display? Explain the technology. Discuss the degree of similarity.

(7) How will our registration decisions affect the public interest in encouraging the development of new and improved computer programs. Will this interest be helped or hurt?

Dated: July 16, 1987.

Ralph Oman,

Register of Copyrights.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87–17122 Filed 7–28–87; 8:45 am]

BILLING CODE 1410–07–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7E3467/P428; FRL-3239.3]

Pesticide Tolerance for Benomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodity pistachios. The proposed regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 7E3467/P428], must be received on or before August 28, 1987.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

In person, bring comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Inforamtion not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

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

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 7E3467 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of California.

This petition requested that the Agency, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the fungicide benomyl (methyl 1-[butylcarbamoyl]-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity pistachios at 0.2 part per million (ppm). The petitioner proposed that this use of benomyl on pistachios be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were:

1. A 2-year dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (12.5 milligrams (mg)/kilogram (kg) of body weight (bw)/day).

2. A 2-year rat feeding study with a NOEL of 2,500 ppm (125 mg/kg bw/day, highest dose tested). There were no oncogenic effects observed under the conditions of the study at feeding levels of 100, 50, and 2,500 ppm (equivalent to 5, 25, and 125 mg/kg/day).

3. A three-generation rate reproduction study with no effect on reproductive performance up to 100 ppm (5.0 mg/kg bw/day).

4. Benomyl has been shown to cause teratogenic effects in rats (microphthalmia) and mice (cleft palate, supernumerary ribs, subnormal vertebral centrum). The NOEL's for teratogenic effects are established at 30 mg/kg/day for rats and 50 mg/kg/day for mice.

A comprehensive review of the data available for benomyl was conducted in connection with the rebuttable presumption against registration (RPAR) for the chemical, which was published in the **Federal Register** of December 6, 1977 (42 FR 61788). This presumption was based on information indicating that benomyl posed the risks of mutagenicity (point mutation and nondisjunction), spermatogenic depression and teratogenic effects, acute toxicity to aquatic organisms, and significant population reduction in nontarget organisms. In the **Federal Register** of August 30, 1979 (44 FR 51166), the Agency published a Preliminary Notice of determination, which concluded that benomyl continued to pose the risks noted above with the exception of point mutations and significant population reductions in nontarget organisms. In the Notice and the accompanying Position Document 2/3, the Agency weighed the risks and benefits of use together, and determined that certain modifications to the terms and conditions of use were necessary to reduce the risks of use to aplicators.

The Agency's position concerning the RPAR issues with benomyl was published in the **Federal Register** of October 20, 1982 (47 FR 46747). In the Notice of Determination Concluding the Rebuttable Presumption Against Registration (PD-4) for benomyl, the Agency determined that the benefits of benomyl use exceed the risk of use if a dust mask is used when mixing and loading for aerial application. Registrants are required to amend their product labels to require use of a dust mask for persons who mix and load benomyl for aerial application.

Subsequent to these findings, the Agency received oncogenicity studies for benomyl using CD-1 mice and its major metabolite methyl 2-benzimidate carbamate (MBC) using CD-1 mice, SPF Swiss mice and HOE NMRKf mice. The Agency has completed review of the oncogenicity studies and concludes that benomyl and MBC tested positive for oncogenicity (liver tumors) in CD-1 mice. MBC also tested positive for oncogenicity in SPF Swiss mice but not in HOE NMRKf mice.

The Agency has classified benomyl as a Group C carcinogen (possible human carcinogen) based on the following considerations:

1. The oncogenic responses observed with benomyl and its metabolite MBC were confined to the mouse liver.

2. The 2-year rat feeding study was negative for oncogenic effects.

3. The liver tumors produced by benomyl and MBC were observed in two genetically related strains of mice (CD-1 and SPF Swiss); live tumors were not observed in HOE NMRKf mice.

4. Benomyl and MBC produced weak mutagenic effects consistent with spindle poison activity rather than gene mutation or DNA repair activity.

The Agency has completed a preliminary risk assessment from dietary exposure resulting from registered and proposed uses of benomyl. The upper limit to the oncogenic, lifetime risk resulting from the worst-case dietary exposure to previously published tolerances is estimated to be 7.52 X 10–5. The incremental dietary risk from tolerance level residues of benomyl on pistachios would not change the upper limit, oncogenic risk calculation. Margins of safety (MOS) for teratogenicity from dietary exposure from current uses would amount to 761, and the MOS for pistachios is 34,884. The MOS for reproductive effects (damage to spermatogonia and seminal vesicles) resulting from existing tolerances and the proposed use of benomyl is 1,717.

The acceptable daily intake (ADI), based on the three-generation rat reproduction study (NOEL of 100 ppm, or 5.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.05 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing uses of benomyl based on the average 1.5-kg daily diet of a 60-kg adult is calculated to be 1.9735 mg/day. The current action will increase the TMRC by 0.00009 mg/day (0.005 percent). Published tolerances utilize 65.78 percent of the ADI; the current action will utilize an additional 0.003 percent.

The nature of the residues is adequately understood and adequate analytical methods, flurometric spectrometry or liquid chromatography employing an ultra-violet detector, are available in the Pesticide Analytical Manual, Volume II (PAM–II), for enforcement purposes. Secondary residues are not expected in meat or milk from the proposed use since pistachios are not an animal feed item. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.294 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

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

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 7E3467/P428]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: July 20, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.294 is amended by adding and alphabetically inserting the raw agricultural commodity pistachios in paragraph (b), to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
Pistachios	0.2

* * * * *

[FR Doc. 87–17185 Filed 7–28–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 5E3269/P426; FRL–2239–2]

Pesticide Tolerance for Oxyfluorfen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the herbicide oxyfluorfen and its metabolites in or on the raw agricultural commodities broccoli, cabbage, and cauliflower. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities was requested in a petition submitted by the Inter-regional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 5E3269/P426], must be received on or before (August 13, 1987).

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

In person, bring comments to: Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460,

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

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3269 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of Florida, Hawaii, Illinois, Maryland, North Carolina, Tennessee, Virginia and the U.S. Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide oxyfluorefen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities broccoli, cabbage, and cauliflower at 0.05 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include:

1. A 20-month mouse chronic feeding/ocogenicity study with a no-observed-effect level (NOEL) of 2 ppm (equivalent to 0.3 milligram (mg) per kilogram (kg) of body weight (bw)) per day and a lowest effect level (LEL) of 20 ppm (increased absolute liver weight and nonneoplsastic histological lesions). The Cancer Assessment Group (CAG) was asked to evaluate the oncogenic potential of oxyfluorfen. CAG requested a 90-day mouse study be performed as an estimate to determine the maximum tolerated dose (MTD). Subsequently, it was determined that toxicological concerns were not considered sufficient to regulate oxyfluorfen as an oncogen, and oxyfluorfen received unconditional registration by the Agency.

2. A 2-year dog feeding study with a NOEL of 100 ppm (equivalent to 2.5 mg/kg/day).

3. A rat oral lethal dose LD50 greater than 5.0 grams (g)/kg.

4. A rabbit teratology study with no observed teratogenic effect at 30 mg/kg.

5. A rat teratology study with no observed terata at 1,000 mg/kg of bw (highest dose tested) and a fetotoxic NOEL of 100 mg/kg.

6. A three-generation rat reproduction study with a NOEL of 10 ppm (equivalent to 0.5 mg/kg of bw).

7. A 2-year rat chronic feeding/oncogenicity study with a NOEL of 40 ppm (equivalent to 2.0 mg/kg of bw) and no oncogenic potential observed under the conditions of the study at feeding levels of 2, 40, and 880 (highest dosage level raised to 1,600 ppm at 57 of the test).

8. A rat cytogenetic test (technical), negative; two Ames assays (technical), one positive and one negative; an Ames assay (purified oxyfluorfen), negative; an Ames assay (polar fraction), positive, Unscheduled DNA Synthesis (UDS) assays (polar fraction), negative; host mediated assay (technical, negative; unscheduled DNA synthesis (UDS) assay (technical), negative and mouse lymphoma assays, negative for purified oxyfluorfen and positive for the technical.

The acceptable daily intake (ADI), based on the chronic mouse feeding study NOEL of 0.3 mg/kg/day (2.0 ppm) and using a 100-fold safety factor, is calculated to be 0.003 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.18 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0006574 mg/kg/day; the current action will increase the TMRC by 0.0000113 mg/kg/day (1.7 percent). Published tolerances utilize 21.91 percent of the ADI; the current action will utilize an additional 0.38 percent.

There are no regulatory actions pending against this pesticide. Oxyfluorfen was the subject of a Rebuttable Presumption Against Registration (RPAR); one of the solvents used in the production of technical oxyfluorfen, perchloroethylene (PCE), has been shown to produce liver tumors in mice. In the Notice of Determination published in the **Federal Register** of June 23, 1982 (47 FR 27118), the Agency concluded that potential benefits from use of oxyfluorfen outweigh risks from PCE, provided oxyfluorfen products are produced with no more than 200 ppm PCE contaminant. The producer of oxyfluorfen has verified that oxyfluorfen formulations contain a maximum of 200 ppm PCE.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available in the Pesticide Analytical Manual, Volume II (PAM–II), for enforcement purposes. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency the tolerance established by amending 40 CFR 180.381 would protect the public health. No secondary residues in meat, milk, poultry, or eggs are expected since broccoli, cabbage, and cauliflower are not considered livestock feed commodities. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of weeds infesting these commodities.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3269/P426]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: July 20, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a

2. Section 180.381 is amended by adding and alphabetically inserting the raw agricultural commodities broccoli, cabbage, and cauliflower in paragraph (a), to read as follows:

§ 180.381 Oxyfluorfen; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Broccoli	0.05
* * * * *	
Cabbage	0.05
* * * * *	
Cauliflower	0.05
* * * * *	

[FR Doc. 87-17186 Filed 7-28-87; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 588

[Docket No. 87-11]

Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Colombia Trade

AGENCY: Federal Maritime Commission.

ACTION: Notice of discontinuance.

SUMMARY: The Federal Maritime Commission discontinues this proceeding and withdraws proposed rule.

DATE: This action is effective July 29, 1987.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: By a "Notice of Proposed Rulemaking" ("Proposed Rule") published on May 29, 1987 (52 FR 20119), the Commission instituted this proceeding under section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876, in response to a petition filed by O.N.E. Shipping, Ltd. ("O.N.E."), *Petition of O.N.E. Shipping, Ltd. for Issuance of Regulations to Adjust and Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States*, and a subsequent amended petition, Amendment to Petition of O.N.E. Shipping, Ltd. for Relief Under Section 19 of the Merchant Marine Act, 1920. The petitions alleged that the cargo preference laws of the Government of Colombia had damaged O.N.E.'s financial position by excluding O.N.E. from the U.S./Colombia liquid bulk trade.

The Proposed Rule would suspend the tariffs of Flota Mercante Grancolombiana, a Colombian-flag carrier, in the United States/Colombia trade unless authorized status is obtained from the Commission. The effect of the Proposed Rule would be to adjust or meet any unfavorable conditions by imposing burdens on a Colombian-flag carrier equal to those imposed on O.N.E. by Colombian laws and regulations. Interested persons were invited to submit comments on the Proposed Rule no later than July 24, 1987.

By letter dated July 17, 1987, O.N.E. has now withdrawn its petitions and requested the Commission to discontinue this proceeding. O.N.E. indicates that the Government of Colombia has assured it and the United States Government

that O.N.E. will be provided free access to the unreserved portion of the United States-Colombia liquid bulk trade, and that O.N.E. will be free to participate on the same terms and conditions as all other carriers, including Colombian-flag carriers and their associated carriers in the carriage of the unreserved cargoes.

Further, O.N.E. advises that the Government of Colombia made a commitment to work with O.N.E. "in order to eliminate any ambiguities in Colombian regulations which would prevent or hinder implementation of the assurances described above." Finally, O.N.E. requests that the time period for commenting on the Proposed Rule be suspended pending Commission disposition of this matter.

Given the Colombian Government's assurances to O.N.E. which led to O.N.E.'s stated withdrawal of its petitions and the fact that the Commission based its Proposed Rule and remedies therein on these petitions, there does not appear to be any need for further action on those petitions or the imposition of sanctions at this time. The Commission therefore shall discontinue this proceeding and withdraw its Proposed Rule.

This action is taken without prejudice to the Commission instituting a new proceeding under Section 19 should conditions in the United States/Colombia trade warrant.

Therefore, it is ordered, that this proceeding is discontinued and the Proposed Rule withdrawn.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87-17095 Filed 7-28-87; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[Gen. Docket No. 86-337]

An Automatic Transmitter Identification System for Radio Transmitting Equipment; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On July 15, 1987, at 52 FR 26538, the Commission published a Notice of Proposed Rule Making (FCC 87-213) in the captioned proceeding. This document corrects the comment/replay comment dates.

DATES: The correct dates are October 7, 1987 and November 6, 1987, respectively.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John R. Hudak, Chief, Signal Analysis Branch (202) 632-6977.

William J. Tricarico,

Secretary.

[FR Doc. 87-17167 Filed 7-28-87; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 67

[CC Docket No. 80-286]

Allocation Procedures for Category 3, Local Dial Switching

AGENCY: Federal Communications Commission.

ACTION: Order extending time to file comments.

SUMMARY: This action extends the time for interested parties to file comments in response to the Federal-State Joint Board Order inviting Comments and Request for Data. *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board* CC Docket No. 80-286, 52 FR 25263 (July 6, 1987). That Order invited interested parties to file comments on or before July 31, 1987 and reply comments on or before August 21, 1987, regarding the separations procedures applicable to Category 3, Central Office Equipment (COE), Local Dial Switching Equipment.

This Order requested comments and data on the appropriate allocation factor for this category, including the possible use of switched minutes of use (SMOU). This extension is in response to a petition from the United States Telephone Association which contends that an extension of time would enable more companies to respond to the data request and would ensure that such responses contain more reliable data.

DATES: The comment period is extended to September 1, 1987. The reply period is extended to September 30, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tom Quaile, Audits Branch, Accounting and Audits Division, Common Carrier Bureau, (202) 632–7500.

Federal Communications Commission.

Gerald Brock,

Chief, Common Carrier Bureau.

[FR Doc. 87–17165 Filed 7–28–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 69

[CC Docket No. 87–215; FCC 87–208]

Enhanced Service Providers; Exemption Charges

AGENCY: Federal Communications Commission (FCC).

ACTION: Proposed rule.

SUMMARY: This Notice proposes to eliminate the exemption from interstate access charges currently allowed enhanced service providers.

DATES: Comments are due on or before August 24, 1987, and reply comments are due on or before September 14, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ruth Milkman, tele: (202) 632–4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* in Common Carrier Docket 87–215, FCC 87–208, Adopted June 10, 1987, and Released July 17, 1987.

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

Summary of Notice of Proposed Rulemaking

1. In this *Notice of Proposed Rulemaking (NPRM)*, we are proposing to eliminate the exemption from interstate access charges currently permitted enhanced service providers. In the *First Reconsideration Order* in the access charge proceeding in 1983, the Commission decided to exempt enhanced service providers and certain other users of local exchange access from the payment of interstate access charges. In the pre-access charge environment, enhanced service providers and WATS resellers were paying local business exchange service rates for their interstate access, rather than the higher amounts assessed to MTS and WATS through division of revenues and settlements. In 1983, the Commission decided that the immediate imposition of interstate access charges on enhanced service providers and resellers could affect their ability to provide service during the time that they were adjusting to the new access charge rules. Consequently, the Commission granted enhanced service providers, as well as resellers, a temporary exemption from the payment of interstate access charges.

2. In Common Carrier Docket No. 86–1, the Commission eliminated the access charge exemptions for resellers. The Commission said that concerns about rate shock may justify a temporary, but not a permanent, exemption. In Docket 86–1, the Commission also said that the elimination of the exemptions for resellers would result in a more economically rational and equitable pricing scheme.

3. This NPRM proposes to eliminate the exemption from access charges permitted to enhanced service providers. Enhanced service providers, like facilities-based interexchange carriers and resellers, use the local network to provide interstate services. To the extent that they are exempt from access changes, the other users of exchange access pay a disproportionate share of the costs of local exchange that access charges are designed to cover. The NPRM tentatively concludes that the temporary period during which an access charge exemption was appropriate has lapsed.

4. The Notice proposes that the application of access charges to enchanced service providers become effective on January 1, 1988.

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

6. The Commission has previously determined that the formal provisions of the Regulatory Flexibility Act are not applicable to proceedings to adopt or revise access charge rules because local exchange carriers, the parties directly subject to the access charge rules, do not fall within the Act's definition of a small entity. While we have not applied the formal procedures of the Regulatory Flexibility Act in this proceeding, we have considered and will consider the effects of the rule changes on enhanced service providers, some of which are small businesses, and we will consider the impact of rule changes upon small telephone companies.

Procedural Matters

7. Pursuant to 47 U.S.C. 154(i), 154(j), 201–05, 218, and 403, and 5 U.S.C. 553, notice is hereby given of the proposed adoption of new or modified rules.

8. All interested persons MAY FILE comments on the issues and proposals discussed herein not later than August 24, 1987 and replies may be filed not later than September 14, 1987. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all statements, briefs, comments, or replies shall be filed with the Federal Communications Commission, Washington, DC, 20054, and all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, DC office. In reaching its decision, the Commission may consider information and ideas not contained in filings, provided that such information is reduced to writing and placed in the public file, and provided that the fact of the Commission's reliance on any such information or ideas is noted in the Order.

9. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted until the time a public notice is issued stating that a substantial disposition of the matter is to be considered in a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever occurs earlier. In general, an *ex parte* presentation is any written or oral communications (other than formal written comments, pleadings, and oral arguments) between a person outside the Commission and a Commissioner or

a member of the Commission's staff that addresses the merits of the proceeding.

10. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation, and that written summary must be served on the Commission's Secretary for inclusion into the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, Section 1.1231 of the Commission's Rule, 47 CFR 1.1231.

List of Subjects in 47 CFR Part 69

Communications common carriers; Reporting and recordkeeping requirements; Telephone.

Proposed Rule Changes

Part 69 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 69—ACCESS CHARGES

1. The authority citation for Part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, and 410 of the Communications Act as amended; 47 U.S.C. 154, 201, 202, 203, 205, 218, 403, and 410.

2. Section 69.2 is amended by revising paragraphs (m) and (gg), and adding a new paragraph (nn), to read as follows:

§ 69.2 Definitions.

* * * * *

(m) "End user" means any customer of an interstate or foreign telecommunications service that is not a carrier or an enhanced service provider except that a carrier other than a telephone company or an enhanced service provider shall be deemed to be an "end user" when such carrier or enhanced service provider uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

* * * * *

(gg) "Access minutes' or "access minutes of use" is that usage of exchange facilities in interstate or foreign service for the purpose of calculating chargeable usage. On the originating end of an interstate or foreign call, usage is to be measured from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier or enhanced service provider's facilities connected with the originating exchange. On the terminating end of an interstate or foreign call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interstate of foreign call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges, as applicable.

* * * * *

(nn) "Enhanced service provider" means a person providing "enhanced services" as defined in Section 64.702(a) of these rules.

3. Section 69.5 is amended by revising paragraph (b) to read as follows:

§ 69.5 Persons to be assessed.

* * * * *

(b) Carrier's carrier charges shall be computed and assessed upon all interexchange carriers or enhanced service providers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services or enhanced services.

* * * * *

4. Section 69.105 is amended by revising paragraphs (a) and (c) to read as follows:

§ 69.105 Carriers common line.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers or enhanced service providers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services or enhanced services.

* * * * *

(c) Any interexchange carrier or enhanced service provider providing interstate or foreign telecommunications services or enhanced services shall receive a credit for Carrier Common Line charges to the extent that it resells services for which these charges have already been assessed (*e.g.*, MTS or MTS-type service of other common carriers).

5. Section 69.106 is amended by revising paragraph (a) to read as follows:

§ 69.106 Line termination.

(a) A charge that is expressed in dollars and cents per access minute shall be assessed upon all interexchange carriers or enhanced service providers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services or enhance services.

* * * * *

6. Section 69.107 is amended by revising paragraph (a) to read as follows:

§ 69.107 Local switching.

(a) Charges that are expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers or enhanced service providers that use local exchange switching facilities for the provision of interstate or foreign telecommunication or enhanced services.

* * * * *

7. Section 69.108 is amended by revising paragraph (a) to read as follows:

§ 69.108 Intercept.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers or enhanced service providers that use local exchange switching facilities for the provision of interstate or foreign telecommunications or enhanced services.

* * * * *

9. Section 69.111 is amended by revising paragraph (a) to read as follows:

§ 69.111 Common transport.

(a) A charge that is expressed in dollar and cents per access minute shall be assessed upon all interexchange carriers or enhanced service providers that use switching or transmission facilities that are apportioned to the Common Transport element for purposes of apportioning net investment.

* * * * *

10. Section 69.112 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 69.112 Dedicated transport.

* * * * *

(b) Appropriate subelements shall be estabished for the use of interface arrangements. Charges for such subelements shall be assessed and computed as follows: (1) Such charges shall be assessed upon all interexchange

carriers or enhanced service providers for the interface arrangements they use to provide interstate or foreign telecommunications or enhanced services;

* * * * *

(c) A charge for the use of voice grade transmission facilities shall be assessed upon interexchange carriers or enhanced service providers that use such facilities to provide interstate or foreign telecommunications or enhanced services. Such charges shall be expressed in dollars and cents per unit of capacity. Total units of capacity provided to an interexchange carrier or enhanced service provider shall be measured by ascertaining the number of conversations that could be transmitted simultaneously without producing blocking in the dedicated transport facilities. The capacity unit charge for carriers that offer MTS shall be weighted by a distance factor that reflects the airline distance between the entry switch and the interexchange facility. The capacity unit charged for other carriers or enhanced service providers shall be weighted by a distance factor that reflects the lesser or least of the airline distance between the entry switch and such carrier or enhanced service provider's interexchange facility or the airline distance between the entry switch and any interexchange facility of carriers that offer MTS that is located within 5 miles of such carrier or enhanced service provider's interexchange facility.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-17166 Filed 7-28-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-131]

Unlimited-time Operation by Existing AM Daytime-only Radio Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment reply comment period.

SUMMARY: This action grants a motion for extension of time for filing comments and reply comments in response to the *Notice of Proposed Rule Making* in MM Docket No. 87-131 (Unlimited-time Operation by Existing AM Daytime-only Radio Broadcast Stations), 52 FR 20431, June 1, 1987. The Clear Channel Broadcasting Service (CCBS) requested that the deadline for filing comments be extended for two weeks to enable consulting engineering firms to complete various studies necessary for the filing of comments. WGN Continental Broadcasting Company filed in support of the extension. The Commission concluded that an extension of time was reasonably necessary to facilitate the completion of the subject studies. However, because of the importance of completing action in this proceeding promptly, the Commission extended the filing dates for ten days rather than the two weeks as had been requested.

DATES: Comments are now due by July 27, 1987 and replies by August 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Mass Media Bureau, (202) 254-3394.

SUPPLEMENTARY INFORMATION: The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William H. Johnson,

Acting Chief, Mass Media Bureau.

[FR Doc. 87-17168 Filed 7-28-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-264, RM-5729]

Radio Broadcasting Services; Live Oak, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by WNER Radio, Inc., licensee of Station WQHL(FM), Live Oak, Florida, proposing to substitute Class Channel 251 for Channel 251C1 at Live Oak, and to modify its license to specify the new channel.

DATES: Comments must be filed on or before September 11, 1987, and reply comments on or before September 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Neal J. Friedman, Pepper and Corazzini, 200 Montgomery Building, 1776 K Street, NW., Washington, DC 20006, (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making MM Docket No. 87-264, adopted July 9, 1987, and released July 20, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-17169 Filed 7-28-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-273, RM-5922]

Radio Broadcasting Services; Ormond-By-The-Sea, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests

comments on a petition for rule making filed by Miller Management Group, Inc., which proposes to allot Channel 239A to Ormond-By-The-Sea, Florida, as a first FM service.

DATES: Comments must be filed on or before September 14, 1987, and reply comments on or before September 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard E. Wiley, Wiley, Rein and Fielding, 1776 K Street, NW., Washington, DC 20006, (counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making MM Docket No. 87–273 adopted July 9, 1987, and released July 24, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–17170 Filed 7–28–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–263, RM–5676]

Radio Broadcasting Services; Biddeford, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by WYJY, Inc. proposing the substitution of Channel 232B1 for 232A at Biddeford, Maine, and modification of the license of FM Station WYJY–FM, to specify operation on Channel 232B1. Canadian concurrence is required for the allocation of Channel 232B1 at Biddeford.

DATES: Comments must be filed on or before September 11, 1987, and reply comments on or before September 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 29554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., 1359 Black Meadow Road, Greenwood Plantation, Spotsylvania, Virginia 22553, (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–263, adopted July 9, 1987, and released July 20, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–17171 Filed 7–28–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–262, RM–5727]

Radio Broadcasting Services; Newberry, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests on a petition filed by Jack St. Andre, proposing the substitution of FM Channel 229C2 for Channel 228A at Newberry, Michigan, and modification of the license for Station WNBY to specify Channel 229C2. Canadian concurrence is required for the allotment of this channel.

DATES: Comments must be filed on or before September 11, 1987, and reply comments on or before September 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Steven J. Pena, Gurman, Kurtis & Blask, Chartered, 1730 M Street, NW., Suite 700, Washington, DC 20036, (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–262, adopted July 9, 1987, and released July 20, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-17172 Filed 7-28-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-261, RM-5719]

Radio Broadcasting Services; Taylorsville, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests on a petition filed by Blakeney Communications, Inc., proposing the substitution of Channel 240C2 for Channel 240A at Taylorsville, Mississippi, and modifications of the license for Station WBBN(FM) at Taylorsville to specify the higher class of channel. This proposal could provide a first wide coverage area station to Taylorsville. This proposal is contingent on Station WLPR, Channel 241 Mobile, Alabama relocating and modifying its facilities in accordance with its construction permit to full Class C standards.

DATES: Comments must be filed on or before July 9, 1987, and reply comments on or before July 20, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Fisher, Wayland, Cooper & Leader, 1255 23rd Street, NW., Suite 800, Washington, DC 20037, (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-261, adopted July 9, 1987, and released July 20, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-17173 Filed 7-28-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-257, RM-5853]

Radio Broadcasting Services; Wendover, NV

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Rita Taylor to allocate Class C Channel 272 to Wendover, Nevada, as the community's first local FM service. Channel 272 can be allocated to Wendover in compliance with the Commission's minimum distance separation requirements. However, since Wendover is not listed in the 1980 U.S. Census, petitioner is requested to provide further information to show that the area is a "community" for allotment purposes. Absent such a showing, the allotment may not be made.

DATE: Comments must filed on or before September 14, 1987, and reply comments on or before September 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Howard M. Liberman, Esq., Arter & Hadden, 1919 Pennsylvania Avenue, NW., Washington, DC 20006 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-257, adopted July 9, 1987, and released July 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-17174 Filed 7-28-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustments and request for comments.

SUMMARY: NOAA announces inseason adjustments of the commercial fishery for all salmon species in the exclusive economic zone (EEZ) from Cape Falcon, Oregon, to the Queets River, Washington, to ensure that the subarea chinook salmon quota is not exceeded. The inseason adjustments (1) close an area from 3–10 miles offshore from North Head to the Queets River; (2) shorten the initial three-day opening to two days, July 25 and July 26; (3) change the closed period from Juy 28–30 to July 27–29; and (4) extend Conservation Zone 2, at the mouth of the Columbia River, to 10 nautical miles for this fishery. The adjustments are necessary to conform to the preseason announcement of 1987 mangement measures. This action is intended to ensure conservation of chinook salmon.

EFFECTIVE DATE: These inseason adjustments are effective at 0001 hours local time, July 25, 1987, until modified or rescinded. Comments on this closure will be received until August 7, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C1570, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at (206) 526–6150.

SUPPLEMENTARY INFORMATION: Management measures for 1987 were effective on May 1, 1987 (52 FR 17264, May 6, 1987). The 1987 commercial fishery for all salmon species from the Queets River, Washington, to Cape Falcon, Oregon, was established as July 25 through July 27, and July 31 through the earlier of attainment of subarea quotas of either 15,000 chinook or 121,200 coho salmon.The subarea chinook quota was raised subsequently to 17,600 fish because of an under-quota chinook harvest in the May, 1987 commercial all-except-coho fishery (52 FR 24296, June 30, 1987).

Based on the best available information, the current ratio of chinook to coho salmon in the area is approximately .9 chinook to 1.0 coho. Because of this ratio, the troll fishery scheduled to begin July 25 will close upon attainment of its chinook quota with a large portion of its coho quota unharvested unless inseason adjustments are made to slow the harvest of chinook salmon until the proportion of chinook salmon availble in the area decreases. The highest proportion of chinook to coho salmon is in northern, near-shore areas at this time.

Accordingly, NOAA issues this notice to (1) close the area from 3–10 nautical miles offshore from North Head to the Queets River; (2) shorten the initial three-day opening to two days, July 25 and July 26, 1987; (3) change the closed period to July 27 through July 29; and (4) change the boundaries of Conservation Zone 2 for this fishery as follows:

Conservation Zone 2 is the ocean area surrounding the Columbia River mouth bounded by a line extended for 10 nautical miles due west from North Head along 46°18′00″ N. latitude to 124°19′00″ W. longitude, then southeasterly 150° True to 124°13′00″ W. longitude and 46°11′06″ N. latitude, then due east to the Columbia River Sea Buoy (46°11′06″ N. latitude and 124°11′00″ W. longitude), then northeasterly along the Red Buoy Line to the tip of south jetty.

Unless further inseason action is taken, the fishery will reopen as scheduled on July 31, 1987, if there are sufficient chinook left in the quota for at least one day's fishing. This notice does not apply to other fisheries which may be operating in this or other areas.

The Director, Northwest Region, MNFS (Regional Director), has determined that without these inseason adjustments the commercial subarea quota of 17,600 chinook salmon would be caught and the fishery closed before the majority of the coho quota could be harvested. This determination was made in consultation with the Chairman of the Pacific Fishery Management Counsil and representatives of the Oregon Department of Fish and Wildlife (ODFW) and the Washington Department of Fisheries (WDF) regarding these inseason adjustments. The ODFW and WDF representatives confirmed that Oregon and Washington will manage the commercial fishery for all salmon species in state waters adjacent to this subarea of the EEZ in accordance with this notice.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated July 24, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87–17254 Filed 7–24–87; 4:39 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 145
Wednesday, July 29, 1987

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 24, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Farmers Home Administration
7 CFR Part 1951 Subpart L, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Farmers Programs
On Occasion
Farms; Businesses or other for- profit; Small Businesses or organizations; 1,180 responses; 1,180 hours; not applicable under 3504(h)
Jack Holston, (202) 382–9736.

• Farmers Home Administration
7 CFR Part 1951 Subpart M, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Single Family Housing
On Occasion
Individuals or households; Non-profit institutions; 2,150 responses; 2,125 hours; not applicable under 3504(h)
Jack Holston, (202) 382–9736.

• Farmers Home Administration
7–CFR Part 1951, Subpart N, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Multiple Family Housing
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 700 responses; 800 hours; not applicable under 3504(h)
Jack Holston, (202) 382–9736

• Farmers Home Administration
7–CFR Part 1951, Subpart O, Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Community and Business Programs
On occasion
State or local governments; Non-profit institutions; 10 responses; 10 hours; not applicable under 3504(h)

Revision

• Federal Crop Insurance Corporation
Field Inspection and Claim for Indemnity
On occasion
Individuals or households; Farms; 103,261 responses; 25,810 hours; not applicable under 3504(h)
Karen Wakeham, (202) 447–6795

• National Agricultural Statistics Service
Farm Labor Survey
Quarterly
Farms; Businesses or other for-profit; 45,140 responses; 11,328 hours; not applicable under 3504(h)
Larry Gambrell, (202) 447–7737.

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 87–17236 Filed 7–28–87; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–030]

Large Power Transformers From France; 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 a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping finding on large power transformers from France. The review covers one manufacturer of this merchandise to the United States and the period June 1, 1983 through May 31, 1986.

There were no shipments to the United States during the period June 1, 1983 through May 31, 1984. The manufacturer failed to respond to our questionnaire for the period June 1, 1984 through May 31, 1986. The Department has preliminarily determined to assess dumping duties using best information available for any entries during the period June 1, 1984 through May 31, 1986.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 29, 1987.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130/2923.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 36888) the final results of

its last administrative review of the antidumping finding on large power transformers from France (37 FR 11772, June 14, 1972). The petitioner, Westinghouse Electric Corporation, requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published notices of initiation of the antidumping duty administrative review on July 9, 1986 (51 FR 24884) and July 17, 1986 (51 FR 25923). The Department has now conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of large power transformers ("transformers"); that is, all types of transformers rated 10,000 KVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination rectifier-transformer units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. Transformers covered by this finding are currently classifiable under items 682.0755, 682.0765, and 682.0775 of the Tariff Schedules of the United States Annotated. These products are currently classifiable under HS item numbers 8504.22.00, 8504.23.00, 8504.34.00, 8504.40.00, 8504.50.00, and 8505.50.00.

The review covers one exporter of French large power transformers to the United States, Alsthom-Atlantique ("Alsthom"), and the period June 1, 1983 through May 31, 1986.

Preliminary Results of the Review

Alsthom made no shipments of large power transformers during the period June 1, 1983 through May 31, 1984. We did not receive a response to our questionnaire for the period June 1, 1984 through May 31, 1986.

We preliminarily determine to assess antidumping duties by using the best information available for the latter period. Our preliminary results are as follows:

Period	Margin (percent)
6/1/83 – 5/31/84	[1] 1.82
6/1/84 – 5/31/86	72.85

[1] No shipments during the period.

Interested parties may request disclosure and/or an administrative protective order within 5 days after the date of publication of this notice. Any requests for a hearing must be made within 8 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Interested parties may also submit written comments on these preliminary results within 30 days of 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. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act and based on the above margins, a cash deposit rate of estimated antidumping duties 72.85 percent shall be required for all shipments by Alsthom of large power transformers from France. For any future entries of this merchandise from a new exporter or manufacturer not covered in this prior administrative reviews, whose first shipments occurred after May 31, 1986 and who is unrelated to any previously reviewed firm, a cash deposit of 1.82 percent on large power transformers shall be required. These deposit requirements are effective for all shipments of French large power transformers 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 section 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: July 23, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 87–17230 Filed 7–28–87; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP Directory Supplement.

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions taken during the second quarter of 1987.

FOR FURTHER INFORMATION CONTACT: Harvey W. Berger, Manager, Laboratory Accreditation, ADMIN A531, National Bureau of Standards, Gaithersburg, MD 20899 (301) 975–4016.

SUPPLEMENTARY INFORMATION: This supplement to the 1986–87 NVLAP Directory of Accredited Laboratories (NBSIR 87–3519) is published pursuant to section 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR 7.6(b)).

The following table summarizes NVLAP accreditation actions for the period April 1, 1987, through June 30, 1987.

	TIM	CTS	CAR	STO	ACO	CPL	DOS	SEA	ECT	Totals
Initial accreditations			1		1		2			+4
Terminations	1	2								−3
870630 Balance	37	25	21	9	8	6	48	1	16	171

The laboratories awarded initial accreditations are:

Carpet: Sponge Cushion, Morris, IL, Donald E. Barkley, 815–942–2300
Acoustics: Acoustic Systems, Acoustical Research Facility, Austin, TX, David Nelson, 512–444–1961
Dosimetry: Portland General Electric, Portland, OR, Norman C. Dyer, 503–556–3713, ICN Dosimetry Services, Costa Mesa, CA, S. Nemecek, 714–545–0100.

The laboratories whose accreditation was terminated are:

Insulation: Wise, Janney, Elstner, Assoc., Northbrook, IL
Concrete: Lincoln-Devore, Colorado Springs, CO, Philippine Geoanalytics, Manila, Philippines.

TIM—Insulation LAP
CTS—Construction Testing Services LAP (formerly Concrete LAP)
CAR—Carpet LAP
ACO—Acoustical Testing Services LAP
STO—Stove LAP
CPL—Commercial Products LAP (Paint, Paper, Mattresses)
DOS—Dosimetry LAP
SEA—Seals and Sealants LAP
ECT—Electromagnetic Compatibility and Telecommunications

Ernest Ambler,
Director.

Dated: July 23, 1987.

[FR Doc. 87–17124 Filed 7–28–87; 8:45 am]
BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Approval of the Proposed Amendment To Incorporate the Chesapeake Bay Critical Areas Protection Program Act and Amending Regulations Into the Maryland Coastal Management Program (MCMP)

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), Department of Commerce.

ACTION: Approval of amendment.

SUMMARY: Notice is hereby given that the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration (NOAA), on behalf of the Secretary of Commerce, approved on July 24, 1987 an amendment to the Maryland Coastal Management Program (MCMP) pursuant to the authority contained in section 306(g) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1455(g), and implementing regulations at 15 CFR 923.81. The amendment includes the incorporation of the Chesapeake Bay Critical Areas Protection Program Act (Chapter 794–1984), the Criteria for Local Critical Area Program Development adopted pursuant to the Chesapeake Bay Critical Area Act (CBCAA), Code of Maryland Regulations (COMAR 14.15.01–11) and the Laws amending the CBCAA: (i) Quorum Requirement (Chapter 601–1986); (ii) Growth allocation (Chapter 602–1986); (iii) Intra-Family Transfers (Chapter 603–1986); and (iv) Impervious Surfaces (Chapter 604–1986).

Approval of this amendment activities the responsibility of Federal agencies and persons applying for Federal licenses and financial assistance for activities affecting the Maryland coastal zone to be consistent with the Program pursuant to the Federal consistency provisions of the Coastal Zone Management Act as of the date of approval. Further information on the responsibilities of affected Federal agencies and applicants for Federal licenses and permits in this regard may be found in 15 CFR Part 930.

A copy of the findings made by the Director in determining that this program amendment meets the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Ocean and Coastal Resource Management.

Inquiries regarding this program should be addressed to: Mr. Joseph A. Uravitch, Regional Manager, South Atlantic and Gulf Regions, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue NW., Washington, DC 20235, (202) 673–5138.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: July 24, 1987.

James P. Blizzard,
Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87–17213 Filed 7–28–87; 8:45 am]
BILLING CODE 3510–08–M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:00 p.m. on August 12, 1987, at the Sheraton Town House, 2961 Wilshire Boulevard, Los Angeles, California 90010. The purpose of the meeting is to develop program plans and to receive a briefing on the status of the U.S. Commission on Civil Rights and its regional operations.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Helen Hernandez or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 20, 1987.

Susan J. Prado,
Acting Staff Director.

[FR Doc. 87–17137 Filed 7–28–87; 8:45 am]
BILLING CODE 6335–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products From Pakistan

July 24, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 3, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535–9481. For information on embargoes and quota re-openings, please call (202) 377–3715.

Background

Under section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the terms of the exchange of notes dated May 20, 1987 and June 11, 1987, which provide that a new agreement shall enter into force beginning on January 1, 1987 and extending through December 31, 1991, the Governments of the United States has decided to control imports for

certain cotton and man-made fiber textile products in Group I Categories 313, 315, 331, 334, 335, 336, 338, 339, 340, 341, 342, 347/348, 351, 352, 363, 369–D; cotton textile products in Categories 300, 301, 310–312, 314, 316–330, 332, 333, 337, 345, 349, 350, 353–362 and 369–0, as a group (Group II), and individual Categories 317, 319, 320, 337, 350 and 369–S within Group II; man-made fiber textile products in Categories 631, 634, 636, 638/639, 640, 641, 647/648, 659 and 666; and individual Categories 369–R and 635, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Pakistan and exported during twelve-month period which began on January 1, 1987 and extends through December 31, 1987, in excess of the designated limits.

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).

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

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 24, 1987

Committee for the Implementation of Textile Agreements

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

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to exchange of notes dated May 20, 1987 and June 11, 1987, signed by the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 3, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987, in excess of the following restraint limits:

Category	12-mo restraint limit
Group I:	
313	64,000,000 sq Yds.
315	49,000,000 sq Yds.
331	650,000 doz prs.
334	38,500 doz.
335	50,000 doz.
336	131,079 doz.
338	2,700,000 doz.
339	650,000 doz.
340	140,255 doz.
341	242,513 doz.
342	80,000 doz.
347/348	315,574 doz.
351	40,000 doz.
352	200,000 doz.
363	25,500,000 numbers.
369–D[1]	2,000,000 pounds of which not more than 750,000 pounds shall be in pile dish towels—TSUSA 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, and 366.2440.
Group II:	
300, 301, 310–312, 314, 316–330, 332, 333, 337, 345, 349, 350, 353–362, 369–0[2] and 369–S[3], as a group.	60,000,000 sq yds equiv.
317	6,000,000 sq yds.
319	4,500,000 sq yds.
320	8,000,000 sq yds.
337	30,000 doz.
350	25,000 doz.
369–S	850,000 pds.
Group III:	
631	450,000 doz prs.
634	37,500 doz.
636	80,000 doz.
638/639[4]	200,000 doz.
640	62,500 doz.
641	90,000 doz.
647/648	425,000 doz.
659	150,000 pds.
666	2,500,000 pds.
369–R[5]	15,000,000 pds.
635	16,949 doz.

[1] In Category 369, only dish towels in TSUSA numbers 665.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860.

[2] In Category 369, all TSUSA numbers except those for dish towels in 656.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860; bar mops in 366.1955 and shop towels in 366.2840.

[3] In Category 369, shop towels in TSUSA number 366.2840.

[4] The conversion factor for Categories 638 and 639 and 639 is 15.5.

[5] In Category 369, bar mops in TSUSA number 366.1955.

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, with the exception of Catgegories 634, 635, 636, 638/639, 640, 641, 647/648, 659 and 666, produced or manufactured in Pakistan, which have been exported to the United States on and after January 1, 1986 and extending through December 31, 1986, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

In carrying out the above directions, the Commissioner of Customs should construe entry into the Untied States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–17205 Filed 7–28–87; 8:45 am]

BILLING CODE 3510–DR–M

Export Visa Arrangement and Exempt Certification Requirements for Textiles and Textile Articles of Cotton, Man-Made Fiber, Silk Blends and Other Vegetable Fibers Produced or Manufactured in Pakistan

July 24, 1987.

The Chairman of the Committee for the Information of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, and amended, has issued the directive published below to the Commissioner of Customs to be effective on August 3, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC, (202) 377–4212.

Background

A CITA directive dated May 27, 1983 (48 FR 25257), as amended on June 2, 1987 (52 FR 21611) established an export visa arrangement and exempt certification for certain cotton, man-

made fiber, silk blend and other vegetable fiber textiles and textile articles, produced or manufactured in Pakistan.

The Governments of the United States and Pakistan have agreed to further amend the existing export visa arrangement and exempt certification requirement to include the following amended list of part-category designations:

Category	Description
369-D	Dishtowels.
369-R	Cotton terry bar mops.
369-S	Shoptowels.
369-O	Other.
631-W	Work gloves.

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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 24, 1987.

Committee for the Implementation of Textile Agreements

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

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of May 27, 1983, as amended on June 2, 1987, issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which established export visa and exempt certification requirements for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan.

Effective on August 3, 1987 and until further notice, the existing export visa arrangement and exempt certification requirement established by the directive of May 27, 1983, as amended, are hereby further amended to include the following amended list of part-category designations:

369-D	369-O	631-W
369-R	369-S	

Accordingly, you are directed to prohibit, effective for shipments of cotton and man-made fiber textile products entered for consumption or withdrawn from warehouse for consumption into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) on or after August 3, 1987, which have been produced or manufactured in Pakistan and exported on and after August 3, 1987 from Pakistan for which the Government of Pakistan has not issued an appropriate visa with the correct subpart category designation (e.g., 369-D). The part-category designations are as follows:

Category	TSUSA Nos.
369-D	365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440 and 366.2860.
369-R	366.1955.
369-S	366.2840.
369-O	All remaining TSUSAs in Category 369.
631-W	704.3215, 704.8525, 704.8550, and 704.9000.

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

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-17204 Filed 7-28-87; 8:45 am]

BILLING CODE 3510-DR-M

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 5, 1987 beginning at 9:30 a.m. in Room 334 of the offices of the Department of Environmental Conservation at 50 Wolf Road, Albany, New York. The hearing will be part of the Commission's regular business meeting which is open to the public.

The subjects of the hearing will be as follows:

Proposed Amendment to the Comprehensive Plan and Administrative Manual—Rules of Practice and Procedure. Notice was given in the June 30, 1987 **Federal Register**, Vol. 52, No. 125, that the Commission would hold a public hearing on August 5, 1987 to receive comments on proposed amendments to its Comprehensive Plan and Rules of Practice and Procedure in relation to penalties and settlements in lieu of penalties. Pursuant to the provisions of Delaware River Basin Compact §14.17, Penal Sanctions, the Commission is now proposing administrative procedures applicable where the Commission has information that there has been a violation or attempted violation of the Compact or any of its rules, regulations, or orders. The proposed amendments address notice to possible violators, records for decision-making, adjudicatory hearings, factors to be applied in assessing the amounts of penalties, enforcement, settlement by agreement in lieu of penalty and penalty suspension or modification. Written comments received by the Commission by the close of business on August 21 will be included in the hearing record.

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

1. *City of New Castle D-78-71 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 21.6 million gallons (mg)/30 days of water to the applicant's distribution system from Well No. 4. Commission approval on November 30, 1983 was limited to three years and has expired. The applicant requests that the total withdrawal from all wells remain limited to 48 mg/30 days. The project is located near the City of New Castle, New Castle County, Delaware.

2. *Audubon Water Company D-80-73 CP.* A well water supply project to serve portions of Lower Providence Township, Montgomery County, Pennsylvania. Designated as Well No. 13, the new facility was expected to yield 300,000 gallons per day (gpd), and has been pumped on a long-term basis in excess of 120,000 gpd. The well will continue to be used to increase pressure in the system and for fire protection.

3. *American Argo Corporation D-81-13 RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 6.9 mg/30 days of water to the applicant's industrial facility from Well Nos. 3 and 5. Commission approval on August 5, 1982 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 6.9 mg/30 days under emergency conditions. The project is located in North Manheim Township and Schuylkill Haven Borough, Schuylkill County, Pennsylvania.

4. *Borough of Quakertown D-82-4 CP (Revision 2).* An application to increase total ground water withdrawals from the Borough of Quakertown's municipal water supply wells by 59,000 gpd (from 31.80 to 33.57 mg/30 days). By increasing ground water pumpage from Well Nos. 11 and 13, and decreasing the pumpage from Well Nos. 12, 14 and 15, there

would be a decrease in ground water withdrawal of 48,000 gpd from the Beaver Run Watershed. The wells are located in or near the Borough of Quakertown, Bucks County, and are in the Southeastern Pennsylvania Ground Water Protected Area.

5. *Mount Laurel Municipal Utilities Authority D–84–36 CP.* A revised application for a sewage treatment project to serve Mount Laurel Township in Burlington County, New Jersey. The existing Hartford Road STP will be modified to eliminate odor problems and to remove 90 percent BOD_5 and TSS from an average waste flow of 2.4 million gallons per day (mgd). Treated effluent will discharge to the Rancocas Creek in Mount Laurel Township, Burlington County.

6. *Coastal Eagle Point Oil Company D–86–15.* A revised application for approval of a ground water decontamination project to withdraw up to 4.32 mg/30 days of water from the applicant's new Well No. RW–1, 0.43 mg/30 days from new Well No. 147–2 and to retain the existing withdrawal limit from all wells of 232 mg/30 days. Water withdrawn will be directed to the applicant's existing wastewater treatment facility and discharged to the Delaware River. The project is located in West Deptford Township, Gloucester County, New Jersey.

7. *Township of Falls Authority D–86–17 CP.* An application for revision of the Comprehensive Plan to include expansion of the existing Falls Township Authority Sewage Treatment Plant from 3.2 mgd secondary treatment to 5.0 mgd tertiary treatment. The existing facility is located at Newportville Road and Ford Road in Bristol Township, Bucks County, Pennsylvania. Treated effluent will continue to be discharged to Neshaminy Creek, 350 feet downstream of the existing point of discharge. The expanded plant is designed to serve projected flows through the year 2010.

8. *Willingboro Municipal Utilities Authority D–86–26 CP.* An application to replace the withdrawal of water from Well No. 7 in the applicant's water supply system which has become an unreliable source of supply and also to approve existing Well No. 9 which was placed into service without Commission approval. The applicant requests that the withdrawal from replacement Well No. 10 be limited to 77.8 mg/30 days, and that the total withdrawal from all wells remain limited to 300 mg/30 days. The project is located in Willingboro Township, Burlington County, New Jersey.

9. *Upper Merion Municipal Utilities Authority D–87–13 CP.* An application to expand the Matsunk Water Pollution Control Center located a half mile south of the Pennsylvania Turnpike Schuylkill River Bridge in Upper Merion Township, Montgomery County. The 2.5 mgd plant will be expanded to treat an average annual flow of 5.5 mgd. The proposed plant is designed to provide secondary treatment of predominantly domestic waste through the year 1997. The facility will continue to serve only portions of Upper Merion Township and West Conshohocken Borough in Montgomery County, and part of Tredyffrin Township in Chester County. Treatment plant effluent will continue to be discharged to Frog Run approximately 0.3 miles from its confluence with the Schuylkill River.

10. *Colonial Pipeline Company D–87–17.* A revision of the previously submitted application for an oil pipeline crossing of the Delaware River to now locate the proposed pipeline no more than 200 feet downstream from the existing Colonial pipeline. The proposed 30-inch diameter pipeline will continue to be sited between New Castle County, Delaware and Logan Township, Gloucester County, New Jersey. Other than the change of location, the project remains the same as described in an earlier Public Notice.

11. *Upper Montgomery Joint Authority D–87–28 CP.* An application to expand and upgrade a 0.72 mgd sewage treatment plant to provide high quality secondary treatment of 2.5 mgd from domestic sources. The proposed plant is designed to process the projected year 2010 flow from residents in Pennsburg, Red Hill, and East Greenville Boroughs, plus Upper Hanover Township, all within Montgomery County, Pennsylvania. The facility is located off Route 663 in Upper Hanover Township. The applicant proposes to install several units to remove phosphorus. Treatment plant effluent will continue to be discharged to Green Lane Reservoir. However, the expanded flow will be conveyed by a parallel, 18 inch diameter outfall line.

12. *Telford Borough Authority D–87–30 CP.* An application for a wastewater treatment plant upgrading and expansion project to serve portions of Franconia Township in Montgomery County, plus parts of West Rockhill and Hilltown Townships in Bucks County, as well as Telford Borough in both counties. The 0.66 mgd secondary treatment plant is located off Fourth Street in Franconia Township, Pennsylvania. The proposed project is specifically designed to provide ammonia nitrogen and phosphorus removal for an average flow of 0.95 mgd. The plant is designed to serve an equivalent population of over 7,400 persons through the year 2000. Treatment plant effluent will continue to discharge to Indian Creek through the existing outfall.

13. *Baldwin Hardware Corporation D–87–32.* A revision of the previously submitted application for a ground water decontamination project to now include both the proposed increased ground water withdrawal from 2.37 mg/30 days to 15.13 mg/30 days for the ground water decontamination program, and the resulting increase in wastewater discharge from 0.25 to 0.475 mgd. New treatment facilities will be added to treat the contaminated ground water pumped from the wells. The final discharge to the Schuylkill River will meet all regulations; however, prior to dilution with the cooling water, the treatment plant effluent may exceed Commission guidelines. The project is located in the City of Reading, Berks County, Pennsylvania.

14. *Pennsylvania Department of Transportation D–87–39 CP.* An application seeking modification of the Comprehensive Plan, approval under Section 3.8 and a special permit (use of floodway), for an 800-foot long portion of Interstate-476 (the "Blue Route") that will pass through Smedley Park (Springfield and Nether Providence Townships, Delaware County, Pennsylvania). While highway projects are normally exempt from DRBC review, the segment crossing Smedley Park is subject to DRBC review, because the park is included in the DRBC Comprehensive Plan.

15. *American Dredging Company D–87–47.* An application to mechanically dredge up to 300,000 cubic yards of materials from the tidal Delaware River at Camden, New Jersey in order to construct and operate a berthing facility for the applicant's proposed hopper dredge. The project will consist of the construction of two breasting dolphins, a ten-foot wide steel grated trestle, and dredging to provide approach channels capable of accommodating a 20-foot draft vessel. The applicant proposes to dredge to a depth of 25 feet below mean low water outshore of the approachway pier. The dredged area will be approximately 2300 feet long and extend up to 800 feet outshore from the mean high water line. The proposed pipe pile-supported, "T" shaped approachway pier will extend approximately 200 feet outshore of the high water line, and will be up to 50 feet wide to provide sufficient berthing for the hopper dredge. The project site is located at the American Dredging Company Yard at Cooper's Point.

16. *Warminster Municipal Authority D–87–49 CP.* An application for approval of a ground water withdrawal project to supply up to 15.0 mg/30 days of water during periods of normal precipitation and 9.75 mg/30 days during dry periods to the applicant's public water supply system from new Well No. 37, and to increase the existing withdrawal limit from all wells to a maximum of 120.9 mg/30 days. The project is located in Warwick Township, Bucks County in the Southeastern Pennsylvania Ground Water Protected Area.

17. *Carneys Point Township Sewerage Authority D–87–50 CP.* An application to upgrade and expand the sewage treatment plant located 1,500 feet west of Virginia Avenue inland from Helms Cove at Carneys Point Township, Salem County, New Jersey. The existing primary treatment plant is designed to process an average flow of 1.0 mgd. The proposed high quality secondary treatment plant is designed to process the year 2005 flow of 1.3 mgd from a projected population of 8,670 persons. The plant will continue to serve only Carneys Point Township. Treatment plant effluent will continue to discharge through the existing outfall to the Delaware River Estuary in Water Quality Zone 5.

18. *Bedminster Municipal Authority D–87–61 CP.* An application for a ground water withdrawal project from Well Nos. 2 and 9 to supply 2.0 mg/30 days of water for domestic use and for fire protection for a development of 288 residences. Well Nos. 2 and 9 were formerly used by Stonebridge Water Company. The project is located in Bedminster Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Public Information Notice

Water Quality Program

The Commission is preparing its water quality program for the fiscal year ending September 30, 1988. Notice of this action is given in accordance with the requirements of the Federal Clean Water Act, as amended. The proposed program will involve a variety of activities in the areas of planning, surveillance, compliance monitoring, regional coordination, use attainability assessment, wasteload allocations and public participation. While the proposed program is not subject to public hearing by the Commission, it is available for examination and review by interested individuals at the Commission's offices upon request. The public review and comment period will end August 8, 1987. Contact Seymour P. Gross at the Commission.

Susan M. Weisman,

Secretary.

July 21, 1987.

[FR Doc. 87–17138 Filed 7–28–87; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; European Atomic Energy Community and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 3160) notice is hereby given of a proposed "subseqent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD.EU (JA)–94, for the retransfer from Japan to the Federal Republic of Germany of two fission counters containing a total of 0.40 grams of uranium enriched to 93.15 percent in the isotope uranium-235 for use in the study of neutron flux measurements in high temperature gas cooled reactors.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subseqent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: July 23, 1987.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–17231 Filed 7–28–87; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement; European Atomic Energy Community and Spain

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subseqent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of American and the Government of Spain concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approved of the following retransfer:

RTD/EU (SP)–17, for the retransfer of 52 kilograms of uranium enriched to 19.95 percent in the isotope uranium-235 from Spain to Nukem, Hanau, the Federal Republic of Germany, for use in the manufacture of fuel elements with reduced U-235 enrichments for material test reactors.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: July 23, 1987.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–17232 Filed 7–28–87; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement; European Atomic Energy Community and Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/EU(SW)–74, for the retransfer from Sweden to Belgonucleaire, Dessel, Belgium, of 2,000 kilograms of uranium containing 4 kilograms of uranium-235 for fabrication of mixed plutonium-uranium fuel elements for Kernkraftwerk Brunsbuttel (KKB), in the Federal Republic of Germany.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that his subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: July 23, 1987.

David B. Waller,

Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–17233 filed 7–28–87; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 87–16–NG]

Order Granting Blanket Authorization To Import Natural Gas From Canada; Peoples Natural Gas Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Peoples Natural Gas Company (Peoples) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87–16–NG authorizes Peoples to import up to 200 Bcf over a two-year period for its own system use.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 22, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–17117 Filed 7–28–87; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 87–33–NG]

Application To Import Natural Gas From Canada; SEMCO Energy Services, Inc.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on June 29, 1987, of an application filed by SEMCO Energy Services, Inc. (SEMCO), for blanket authorization to import Canadian natural gas for short-term and spot market sales in the United States. Authorization is requested to import up to 400 Bcf for a two-year term beginning on the date of the first delivery. The gas would be sold on a short-term or spot basis to U.S. purchasers including pipelines, local distribution companies, and commercial and industrial end-users. SEMCO would import gas for its own account or act as a broker for U.S. purchasers as well as Canadian suppliers. The specific terms of each import and sale would be negotiated on an individual basis, including price and volumes. SEMCO intends to utilize existing pipeline facilities at Emerson, Manitoba or any other border crossing, for transportation of the volumes imported. The firm proposes to submit quarterly reports giving details of individual transactions within 30 days following each calendar quarter.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than August 28, 1987.

FOR FURTHER INFORMATION CONTACT:

Allyson Reilly, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0478. They must be filed no later than 4:30 p.m. e.d.t., August 28, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. A request to file additional written comments should

explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of SEMCO's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 23, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–17118 Filed 7–28–87; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 87–15–NG]

Order Granting Blanket Authorization To Import Natural Gas From Canada; Spot Market Corp.

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Notice of order amending blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order to Spot Market Corporation (SMC) amending its existing blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87–15–NG increases the maximum amount of gas that SMC may import for sale in the domestic spot market from 100 Bcf over a period of two years to 300 Bcf over the same term.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 22, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–17119 Filed 7–28–87; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Changes to DOE Energy Information Reporting and Record-Keeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of energy information reporting and record-keeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511), for which EIA is responsible. DOE management and procurement assistance collections, which are the responsibility of the Office of Management and Administration, are no longer included in these notices.

During the third quarter of fiscal year 1987 (April 1, 1987 through June 30, 1987), changes were made to the October 1, 1986 inventory of DOE information collections, which was published in the **Federal Register**, 51 FR 37958 (October 27, 1986). Changes made during the first quarter were published in the **Federal Register**, 52 FR 4519 (February 12, 1987), and changes made during the second quarter were published in 52 FR 12584 (April 17, 1987). The third quarter changes are listed below, and include new information collections approved by the Office of Management and Budget (OMB), collections extended, reinstated, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement extension, or requirement reinstatement, the current DOE control or form number, the title, the OMB control number, and the OMB approval expiration date are listed by the DOE sponsoring office. For the list of discontinued requirements, the discontinued date is shown instead of the expiration date. If applicable, the appropriate Code of Federal Regulations citation is also listed. For revised information collections, a brief summary of the type of revision is noted. Information collections not utilizing structured forms are designated by an asterisk (*) placed to the right of the control or form number.

FOR FURTHER INFORMATION CONTACT: Etta Harris, EI–73, Energy Information Administration, Mail Stop 1H–023, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2165.

Information on the availability of single, blank information copies of those collections utilizing structured forms may be obtained by contacting the National Energy Information Center, EI–231, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 586–8800.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Information Administration Act of 1974, (15 U.S.C. 764(a), 764(b), 772(b) and 790(a)).

Issued in Washington, DC, July 23, 1987.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

NEW DOE ENERGY INFORMATION COLLECTIONS APPROVED BY OMB

DOE No.	Title	OMB control No.	Expiration date	CFR citation
	Federal Energy Regulatory Commission			
FERC–590*	Wellhead Pricing: Pricing Audit	19020147	07/31/89	

*Does not utilize a structured form.

DOE Energy Information Collections Extended

DOE No.	Title	OMB Control No.	Expiration date	CFR Citation
	Energy Information Administration			
EIA-14	Refiners' monthly cost report	19050125	09/30/87	
EIA-176	Annual report of natural and supplemental gas supply and disposition	19050147	12/31/87	
EIA-182	Domestic crude oil first purchase report	19050143	09/30/87	
EIA-191	Underground natural gas storage report	19050026	12/31/87	
EIA-627	Annual quantity and value of natural gas report	19050122	12/31/87	
EIA-782A	Monthly petroleum product sales report	19050141	09/30/87	
EIA-782B	Reseller/retailer's monthly petroleum product sales report	19050139	09/30/87	
EIA-782C	Monthly report of petroleum products sold into states for consumption	19050140	09/30/87	
EIA-856	Monthly foreign crude oil acquisition report	19050156	09/30/87	
EIA-857	DOE monthly report of natural gas purchases and deliveries to consumers.	19050157	12/31/87	
	Federal Energy Regulatory Commission			
FERC-11	Natural gas Pipeline Company monthly statement	19020032	06/30/90	18 CFR 260.
FERC-542*	Gas pipeline rates: initial rates, rate change, and PGA tracking (Re: Revisions to the purchased gas adjustment regulations) RM86-14.	19020070	02/29/88	18 CFR 154.38, 154.61-154.67.
FERC-558*	Format of contract summary for applications for certificates of public convenience and necessity.	19020109	07/31/90	18 CFR 250.5, 157.24(a).
FERC-559*	Independent producer rate change or initial billing statement	19020036	06/30/90	18 CFR 250.14, 154.92 (a) & (b), 154.94 (f) & (h).
FERC-583*	Hydroelectric fees and annual charges	19020136	09/30/87	18 CFR 11.20,-22, .24, 131.70, 11.01-11.04, 11.06.
	International Affairs and Energy Emergencies			
IE-400	Survey of surplus natural gas supplies	19010289	12/31/87	

* Does not utilize a structured form.

Reinstated DOE Energy Information Collection

DOE No.	Title	OMB Control No.	Expiration date	CFR Citation
	Federal Energy Regulatory Commission			
EIA-714(1)	Annual electric power system report	19020140	03/31/88	

DOE Energy Information Collections Discontinued or Allowed to Expire

DOE No.	Title	OMB Control No.	Discontinued date	CFR Citation
	Energy Information Administration			
EIA-141	National survey of fuel purchases for vehicles—purchase log and supplementary questionnaire.	19050068	05/31/87	
EIA-429	National survey of fuel purchases for vehicles—background questionnaire.	19050086	05/31/87	
	Federal Energy Regulatory Commission			
FERC-579 [1]	State implementation of PURPA 210—cogeneration and small power production.	19020133	03/31/87	18 CFR 292.401.

CHANGES IN CONTINUING DOE ENERGY INFORMATION COLLECTIONS

DOE Nos. as previously listed	Changes
Energy Information Administration	
EIA-457A/G	Minor modifications to survey and approved through 5/31/90.
Federal Regulatory Commission	
FERC-2, FERC-2A, FERC-500*, FERC-505*, FERC-516*, FERC-530*, FERC-531*, FERC-537*, FERC-542*, FERC-549*, FERC-582*.	Changes in regulations.

*Does not utilize a structured form.

[FR Doc. 87-17234 Filed 7-28-87; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Final Allocation Criteria and Allocations of Capacity and Associated Energy From the Parker-Davis Project

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of final allocation criteria and allocations of capacity and associated energy from the Parker-Davis project.

SUMMARY: The Boulder City Area Office of the Western Area Power Administration (Western) published the "Proposed Allocation Criteria and Allocations of Capacity and Associated Energy from the Parker-Davis Project" in the Federal Register (52 FR 7014) on March 6, 1987. A public information forum was held in Las Vegas, Nevada, on March 16, 1987, and a public comment forum was held at the same location on March 23, 1987. Written comments were accepted at the Boulder City Area Office until April 6, 1987. Western has reviewed and considered each comment received. The Supplementary Information section, which follows, provides Western's responses to all the major comments, criticisms, and alternatives offered on the proposed allocations. After review of the comments, Western has determined that the final allocations of capacity and associated energy from the Parker-Davis Project, as published herein, are appropriate. Based upon these final allocations, Western will initiate contract negotiations for capacity and associated energy from the Parker-Davis Project.

DATES: These final allocation criteria and allocations of capacity and associated energy are effective August 28, 1987.

ADDRESSES: For further information concerning these final allocations, contact: Mr. Earl Hodge, Acting Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477-3255.

SUPPLEMENTARY INFORMATION: The power to be allocated from the Parker-Davis Project was specified in the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Conformed Criteria) published in the Federal Register (49 FR 50582) on December 28, 1984. The Conformed Criteria provided for the reservation of capacity and associated energy to existing Parker-Davis Project contractors upon receipt of an application. Also, the Conformed Criteria identified an additional amount of capacity and associated energy (Additional Power) as being available for allocation after May 31, 1987.

In the January 18, 1985, Federal Register (50 FR 2717), Western requested applications for the capacity and associated energy to be available after June 1, 1987, from the Parker-Davis Project. Western reviewed the applications received and published the proposed allocation criteria and allocations of capacity in the Federal Register (52 FR 7014) on March 6, 1987. Interested parties were invited to submit comments to Western concerning the proposed Parker-Davis Project allocation criteria and allocations.

Comments were received on the proposed allocation criteria and the specific proposed allocations of Parker-Davis Project capacity and associated energy. The comments and Western's responses are as follows.

Discussion on Comments Received

Gila River Indian Community

Western proposed no allocation to the Gila River Indian Community (Community) because it did not own and operate a utility system and did not have utility responsibility. The Community commented that it is actively taking the necessary preliminary steps in acquiring the on-reservation portion of the San Carlos Irrigation Projects (SCIP) Electric Utility System, and intends to take ownership of the system in the future. The Community further commented it needs to secure contracted power resources before it can obtain financing for the acquisition, and that it would be willing to temporarily assign its allocation to SCIP until such time that the acquisition was complete.

The Community comments are directed to one of the additional factors contained in the allocation criteria which required an applicant to have utility status as of March 6, 1987. Western adopted this factor in light of the small amount of Additional Power available for allocation from the Parker-Davis Project and the large number of qualified applicants. The Community has not provided information that it meets this factor; therefore, no allocation has been granted to the Community.

City of Vernon

The City of Vernon commented that Western's allocation to existing Parker-Davis Project contractors was directly contrary to Western's proposed decision (with respect to Vernon not being eligible to receive an allocation of power because it will receive power from Western after 1987) to ensure the widespread use of the Federal resource. The City of Vernon requests that Western allocate Parker-Davis Project power to it because the Federal allocation it is receiving satisfies a very small amount of its power requirements.

Western's allocation to existing Parker-Davis Project contractors did not increase their allocation. Western only substituted a nonwithdrawable resource for a withdrawable resource. Western believes that the criteria for the allocation of the Additional Power to new customers were reasonable and insure the widespread use of the resource. No changes have been made to the criteria as a result of comments from the City of Vernon.

City of Needles

The City of Needles (Needles) inquired as to the date that contract negotiations would begin.

Western will initiate contract negotiations with the allottees after the allocations set forth herein are published. The effective date of the allocations is 30 days after publication of this notice in the Federal Register.

Needles also pointed out that the energy amounts calculated from the kilowatthour per kilowatt ratio provided in the proposed allocation would not be the same as the amounts designated to be available to Needles in the

Conformed Criteria. Needles requested that the power contract should reflect the amounts specified in the Conformed Criteria.

Western agrees with Needles. The power contract will reflect the amounts specified in the Conformed Criteria.

Intermountain Consumer Power Association (ICPA), Garkane Power Association, Inc. (Garkane), and Dixie-Escalante Rural Electric Association, Inc. (Dixie-Escalante)

ICPA commented that it submitted an application on behalf of its individual members serving loads located within the Boulder City marketing area, specifically in behalf of Dixie-Escalante and Garkane. ICPA requested that these members be considered for a Parker-Davis Project allocation. Garkane and Dixie-Escalante also submitted comments on their own behalf and requested an additional allocation for the Arizona portion of their service area. They contend that the determination by Western that a major portion of their service area is outside the Boulder City marketing area as described in the Conformed Criteria is not consistent with other allocations made by Western and is unwarranted. They state that they are sharing upper basin power with Arizona customers; therefore, they are entitled to an allocation of lower basin power. They also contend that they should have been previously advised of the intention of Western to deny its Arizona application in time for them to alert their Arizona customers to make an application on their own behalf. They further stated that Western utilized some additional factors to allocate the Parker-Davis Project power which were never part of the adopted criteria and questioned Western in applying the other "Federal resources" criteria.

Part V of the Conformed Criteria specified that Parker-Davis Project power would be allocated in a specific order of priority. The first order of priority was "preference entities within the Boulder City marketing area." The **Federal Register** notice (50 FR 2717) requesting applications for power from Boulder City Area Projects specified that "new applicants and existing Parker-Davis Project contractors are requested to apply for the Parker-Davis Project capacity and energy allocations as provided in the Conformed Criteria (Part V)."

Western believes that this was clear notice that Western would be looking at entities within the Boulder City marketing area as first priority applicants for Parker-Davis Project power. Western believes that ICPA, Garkane, and Dixie-Escalante are not within the Boulder City marketing area, and therefore are not first priority applicants. Since all available Parker-Davis Project power has been allocated to entities within the Boulder City marketing area, neither ICPA, Garkane, nor Dixie-Escalante will receive an allocation.

Furthermore, Western proposed in the March 6, 1987, **Federal Register** notice to utilize four additional factors in the Parker-Davis Project allocation in order to "narrow the field" to a reasonable number of applicants. Western considered other Federal resources in order to identify qualified applicants which did not have any contracts with Western for Federal power. In adopting and applying these criteria, Western has been able to allocate a reasonable amount of power to entities without contracts with Western. Both Garkane and Dixie-Escalante have allocations of other Federal resources. Under the criteria established by Western for the allocation of Parker-Davis Project power, ICPA, on behalf of Garkane and Dixie-Escalante, or the entities on their own behalf, will not be allocated Parker-Davis Project power.

Electrical District No. 8 (ED–8)

ED–8 commented that it is similar to other districts and military installations in respect to its utility ownership and responsibilities. ED–8 stated that it is empowered with the legal authority and responsibilities of owning, operating, and contracting for its electric utility system and to provide power to its customers. ED–8 further stated that the criteria applied were not previously adopted by Western and do not serve as a reasonable classification for distinguishing among potential beneficiaries of Federal resources, and are contrary to historical administrative policies of Western. ED–8 recommended that Western consider the load, load growth, type of load serviced, and the Federal hydropower and water entitlements of each applicant. ED–8 specifically requested that Western adopt a criteria which allocates power to those districts with customers who do not have an entitlement to Central Arizona Project water.

As explained previously, Western utilized the "utility status as of the date of the **Federal Register** notice" factor to narrow the field of qualified applicants in order to allocate the small amount of Additional Power. ED–8 has not provided evidence that it had utility status by the date of the publication of the March 6, 1987, **Federal Register** notice. Being empowered with the legal authority and responsibility of owning and operating an electric utility system is not the same as actually owning and operating a system. Western believes that the "utility status" factor, as well as the other additional factors applied, were appropriate for the allocation of the small amount of Additional Power available from the Parker-Davis Project. Western does not believe that an allocation criterion based on water rights is appropriate for the Parker-Davis Project.

Department of Energy, Nevada Operations Office (DOE/NTS)

DOE/NTS requested that Western reconsider the proposed denial of an allocation to DOE/NTS in light of the information provided regarding the transmission path available from a Parker-Davis Project designated point-of-delivery to DOE/NTS facilities. DOE/NTS indicated that it has an agreement with Valley Electric Association (VEA) that provides DOE/NTS with the right to 13.5 MW of transmission capacity on the VEA 138–kV line between Amargosa Substation (a Parker-Davis Project point-of-delivery) to Jackass Flats Substation. DOE/NTS and VEA have already discussed a modification in the existing agreement to provide for the delivery by VEA of a Parker-Davis Project power delivery. DOE/NTS further states that the power would enter the power system owned by DOE/NTS, consisting of a 100-mile 138-kV transmission loop and a 34.5-kV distribution system, at Jackass Flats Substation.

DOE/NTS has provided additional information that it can meet the criteria, particularly the criteria regarding its ability to receive the power at a Parker-Davis Project designated point-of-delivery. Therefore, Western has modified the proposed allocations of Parker-Davis Project Additional Power to include an allocation to DOE/NTS. As a result, each of the proposed allocations of Additional Power have been decreased by a small amount.

Conclusion

After review and analysis of the comments received, Western has determined that no new information has been presented that would warrant any change in the four additional proposed allocation factors. The final allocations set forth in this notice are based upon the Conformed Criteria and the four additional factors. DOE/NTS originally was not selected for a proposed allocation because there was not sufficient information in the application with regard to the transmission path that would be utilized to deliver the power to DOE/NTS. DOE/NTS has now

provided sufficient information regarding the transmission path that would be utilized by DOE/NTS. Therefore, the Parker-Davis Project proposed allocation of Additional Power to new contractors was modified to include DOE/NTS. As a result of the modification, all proposed new contractors have had their proposed allocations of Additional Power reduced to accommodate the allocation to DOE/NTS.

Executive Order 12291

The Department of Energy has determined that this allocation is not a major rule because the allocation does not meet the criteria of section 1(b) of Executive Order 12291 (46 FR 13193) dated February 17, 1981. Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Regulatory Flexibility Act

Pursuant to Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required to publish a notice of a public rule, shall prepare for public comments an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the allocation criteria and allocations relate to electric services provided by Western. Under section 601(b) of the Regulatory Flexibility Act of 1980, services are not considered "rules" within the meaning of the Act; therefore, Western believes that no flexibility analysis is required.

National Environmental Policy Act

Pursuant to the National Environmental Policy Act of 1969 and the Department of Energy regulations published in the **Federal Register** on February 23, 1982 (47 FR 7976), as amended, Western evaluated the potential for environmental impact of the Boulder City General Consolidated Power Marketing Criteria or Regulations for the Boulder City Area Projects (Environmental Assessment No. DOE–EA–204). On May 2, 1983, the Department of Energy executed a Finding of No Significant Impact for that proposal. Allocation Criteria for the Parker-Davis Project were addressed in the Conformed Criteria.

The Criteria Environmental Assessment addressed the impact of the offer of Additional Power from the Parker-Davis Project. Western has evaluated the Conformed Criteria to determine if this action is a significant action in the context of the National Environmental Policy Act and has determined that the allocation will not lead to any significant environmental impacts.

Additional Information

The following materials relative to the proposed allocation of Parker-Davis Power are available for inspection at the Boulder City Area Office:

1. Copies of comments received concerning the proposed allocation criteria and allocations of capacity and associated energy from the Parker-Davis Project.
2. Reporter's transcript of proceedings, public comment forum on proposed allocations of power from the Parker-Davis Project, March 12, 1987.
3. Reporter's transcript of proceedings, public information forum on proposed allocations of power from the Parker-Davis Project, March 23, 1987, and copy of graphics used in the presentation.
4. Letter dated March 12, 1987, from Western to all Parker-Davis Project Interested Parties, concerning corrections to the March 6, 1987, **Federal Register** notice.
5. **Federal Register** notice (52 FR 7104) dated March 6, 1987, publishing the "Notice of Proposed Allocation Criteria and Allocations of Capacity and Associated Energy from the Parker-Davis Project."
6. Applications received requesting Parker-Davis Project capacity and associated energy.
7. **Federal Register** notice (49 FR 50582) dated December 28, 1984, publishing the "Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects."
8. **Federal Register** notice (50 FR 2717) dated January 18, 1985, publishing the "Request for Applications for Power from Boulder City Area Projects."
9. Environmental Assessment of General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects, Western Area Power Administration, April 1983 (DOE EA–0204, as supplemented by an economic study dated June 1987).

Allocations

These final allocations are made in accordance with the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*), the Federal power marketing authorities contained in Reclamation laws (43 U.S.C. 371, *et seq.* and all acts amendatory thereof or supplementary thereto), and the acts specifically applicable to the Parker-Davis Project. The final allocations include the allocation of power reserved for existing Parker-Davis Project contractors and the allocation of Additional Power available from the Parker-Davis Project after June 1, 1987. The allocations of Additional Power (including DOE/NTS) are based on the methodology published in the **Federal Register** (52 FR 7014) on March 6, 1987, as follows:

1. Withdrawing an amount from the existing Parker-Davis Project contractors with withdrawable capacity (equal to one-half of their existing withdrawable capacity) and allocating the same amount of nonwithdrawable capacity to those contractors.
2. Allocating nonwithdrawable additional capacity, in an amount equal to 1,000 kilowatts plus a proportionate share of any balance remaining, to eligible new applicants which do not have contracts with Western.
3. Allocating withdrawable Additional Power (released by allocating nonwithdrawable capacity to existing contractors) according to the following methodology. For each season, Western divided the amount of nonwithdrawable Additional Power to be allocated to each eligible new applicant by the total amount of nonwithdrawable Additional Power to be allocated to all the eligible new applicants. The resulting quotient for each eligible new applicant was then multiplied by the total amount of withdrawable Additional Power available for allocation in each season. That product is the amount of withdrawable Additional Power to be allocated to each applicant in each season.

The final allocations of capacity from the Parker-Davis Project after June 1, 1987, are shown in the following table 1:

Table 1.—Parker-Davis Project

[Capacity (kilowatts) Allocation]

Allottee [3]	Winter Season [2]			Summer Season [1]		
	Withdrawable	Non-withdrawable	Total	Withdrawable	Non-withdrawable	Total
APPA:						
AEPCO	-0-	18,400	18,400	-0-	23,800	23,800
Mesa	-0-	8,000	8,000	-0-	10,450	10,450
CRIR	-0-	5,940	5,940	-0-	8,900	8,900
CRC (NV)	2,355	38,655	41,010	3,950	53,000	56,950
DOE/NTS	419	1,759	2,178	707	1,537	2,244
Edwards AFB	590	14,040	14,630	967	17,318	18,285
ED-1	407	1,708	2,115	717	1,558	2,275
ED-3	1,058	1,057	2,115	1,462	1,463	2,925
FMIT	-0-	1,200	1,200	-0-	1,970	1,970
Fredonia	258	1,084	1,342	497	1,080	1,577
George AFB	339	1,421	1,760	633	1,374	2,007
IID	-0-	26,300	26,300	-0-	32,550	32,550
Luke/Gila Bend AFB:						
Luke AFB	430	1,805	2,235	702	1,525	2,227
Gila Bend AFB	76	319	395	124	270	394
Navy-Marine Air Station	345	1,450	1,795	680	1,477	2,157
Needles	-0-	4,064	4,064	-0-	5,100	5,100
Nellis AFB	506	2,124	2,630	910	1,977	2,887
Norton AFB	453	1,900	2,353	808	1,755	2,563
Papago Tribal Authority	453	1,900	2,353	910	1,977	2,887
SRP	-0-	22,500	22,500	-0-	31,700	31,700
SCIP	590	12,540	13,130	967	16,218	17,185
Thatcher	-0-	250	250	-0-	350	350
WMI&DD	297	2,148	2,445	450	2,650	3,100
Wickenburg	294	1,236	1,530	579	1,258	1,837
YID	-0-	780	780	-0-	960	960
YPG	590	3,490	4,080	967	4,268	5,235
Total	9,460	176,070	185,530	16,030	226,485	242,515

[1] March-September.
[2] October-February.
[3] See Appendix A.

As provided in the Conformed Criteria, the associated energy from the Parker-Davis Project, on or after June 1, 1987, will be equal to 3,441 kilowatthours per kilowatt in the summer season and 1,703 kilowatthours per kilowatt in the winter season. Each contractor's energy allocation will be based on these seasonal kilowatthour per kilowatt ratios.

The Parker-Davis Project withdrawable capacity and associated energy is power that is reserved for United States priority use, but not presently needed. When priority-use power is requested, Western will substantiate that the power to be withdrawn will be used for the purposes specified in the Conformed Criteria and then, upon a 2-year written advance notice, Western may withdraw the necessary amount of power on a pro rata basis. Withdrawals of power may be made until the total amount of power reserved for priority-use purposes is fully withdrawn.

In the event that a contractor or potential contractor fails to place power under contract within a reasonable period, to be determined by Western, in accordance with the terms and conditions offered by Western or fails to have the means to receive the power at a Parker-Davis Project designated point-of-delivery within 1 year from the date of this **Federal Register** notice, unless Western specifically agrees otherwise in writing, the amounts of power released by such failure will be reallocated by Western in accordance with the Conformed Criteria.

Upon publication of these final allocations, new contracts will be negotiated with existing and new allottees for the power contract period to end September 30, 2007.

Issued at Golden, Colorado, July 15, 1987.

William H. Clagett,

Administrator.

APPENDIX A.—PARKER-DAVIS PROJECT ALLOTTEES

APPA	Arizona Power Pooling Association, Arizona.
AEPCO	Arizona Electric Power Cooperative, Inc. Arizona.
Mesa	City of Mesa, Arizona.
CRIR	Bureau of Indian Affairs, Colorado River Indian Reservation, Arizona, California.
CRC	Colorado River Commission of Nevada, Nevada.
DOE/NTS	United States Department of Energy, Nevada Test Site, Nevada.
Edwards AFB	Edwards Air Force Base, California.
ED-1	Electrical District No. 1, Arizona.
ED-3	Electrical District No. 3, Arizona.
FMIT	Fort Mohave Indian Tribe, Arizona.
Fredonia	City of Fredonia, Arizona.
George AFB	George Air Force Base, California.
IID	Imperial Irrigation District, California.
Luke/Gila Bend AFB.	Luke Air Force Base and Gila Bend Air Force Base, Arizona.

APPENDIX A.—PARKER-DAVIS PROJECT ALLOTTEES—Continued

Navy-Marine Air Station.	Navy-Marine Air Station, Arizona.
Needles	City of Needles, California.
Nellis AFB	Nellis Air Force Base, Nevada.
Norton AFB	Norton Air Force Base, California.
Papago Tribal Authority.	Papago Tribal Utility Authority, Arizona.
SRP	Salt River Project, Arizona.
SCIP	San Carlos Irrigation Project, Arizona.
Thatcher	Town of Thatcher, Arizona.
WMI&DD	Wellton-Mohawk Irrigation and Drainage District, Arizona.
Wickenburg	Town of Wickenburg, Arizona.
YID	Yuma Irrigation District, Arizona.
YPG	Department of the Army, Yuma Proving Ground, Arizona.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-3239-1]

Proposed General NPDES Permit for Private Domestic Discharges in East Baton Rouge Parish in the State of Louisiana

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed general NPDES permit.

SUMMARY: The Regional Administrator of Region VI has tentatively decided to prepare a draft general NPDES Permit for certain dischargers who treat private domestic wastes. When issued, this general NPDES Permit will establish effluent limitations, standards, prohibitions, and other conditions on these discharges. The facilities to be covered by this permit are located in East Baton Rouge Parish within the State of Louisiana.

This draft general permit is based on the administrative record available for public review in Region VI of the Environmental Protection Agency (EPA). The fact sheet sets forth the principal facts and the significant factual, legal and policy questions considered in the development of the draft permit. A copy of the draft permit is reprinted below.

DATE: Interested persons may submit comments of the draft general permit and administrative record no later than August 28, 1987.

ADDRESS: Comments should be sent to: Ms. Ellen Caldwell (6W-PS), U.S. Environmental Protection Agency, Region VI, Allied Bank Tower, 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 655-7190.

Fact Sheet and Supplementary Information

I. Background

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) Permit. In the past, such permits have generally been issued to individual dischargers. However, EPA's regulations authorize the issuance of general permits to categories of dischargers (40 CFR 122.28). EPA may issue a single, general permit to a category of point sources located in the same geographic area whose discharges warrant similar pollution control measures. The Regional Administrator (with delegation to the Water Management Division Director) is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

As is the case of individual permits, violations of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act. Any owner or operator authorized by a final general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting a NPDES permit application, together with reasons supporting the request, no later than October 27, 1987. New facilities may apply for an individual permit or for the general permit when submitting their application.

The Regional Administrator may require any person authorized to discharge by a final general permit to apply for and obtain an individual permit. In addition, any interested person may petition the Regional Administrator to take this action. However, an individual permit will not be issued for any point source covered by a general permit unless it can be demonstrated that inclusion under a general permit is clearly inappropriate. The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitation guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; and
6. The requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

B. Request to be Covered by the General Permit

Operators of private domestic discharger sources located within the permit area must make a written request to the Regional Administrator that they be covered by this general permit. Unless otherwise notified in writing by the Regional Administrator within thirty (30) days after submission of its request, operators requesting coverage will be authorized to discharge under this general permit.

Operators of existing facilities must submit their written request within forty-five (45) days of issuance of the final permit. New dischargers must submit the written request fourteen (14) days prior to commencement of discharge within the general permit area. All requests shall include the name and legal address of the operator, the location and the name of the receiving stream(s).

Operators who fail to request coverage will not be authorized to discharge under the general permit. Operators who fail to request coverage under either this general permit or an individual permit may be subject to an enforcement action by EPA for discharging without a permit.

Operators requesting to be covered by this general permit shall notify the Regional Administrator of any prior application for an individual permit or issued individual permit and shall identify any NPDES number which was assigned to the application or individual permit.

C. Expiration Date

This NPDES general permit shall expire five (5) years from the effective date of the permit or for coverage of a facility under the general permit upon

termination of discharge and closure of the facility.

D. Water Quality Based Effluent Limitations

The Louisiana Department of Environmental Quality, Office of Water Resources, has promulgated area wide policies which update the Water Quality Management Plan for all sanitary waste treatment facilities which discharge in East Baton Rouge Parish, Louisiana.

The area wide policy which updates the Water Quality Management Plans is:

1. All facilities which are built, modified, or upgraded after September 30, 1986, having a design capacity (flow) of 100,000 gallons per day (gpd) or greater, will be limited as follows:

BOD_5 10 mg/1 (avg)/15 mg/1 (max)
TSS 15 mg/1 (avg)/23 mg/1 (max)
NH_3–N 5 mg/1 (avg)/10 mg/1 (max)

Those facilities as above, greater than 25,000 gpd and less than 100,000 gpd design capacity (flow) will be limited at:

BOD_5 10 mg/1 (avg)/15 mg/1 (max)
TSS 15 mg/1 (avg)/23 mg/1 (max)

2. All facilities existing as of September 30, 1986 must upgrade to the above treatment levels by October 1, 1991.

3. Disinfection will be required.

4. Limitations for facilities of or less than 25,000 gpd capacity (flow) will be decided on a case-by-case basis.

E. Technology Based Effluent Limitations

Best professional judgment (BPJ) for best conventional pollutant control technology (BCT) is based on secondary standards under 40 CFR 133.102(c) for pH within the range of 6.0 to 9.0 standard units; and based on secondary standards under 40 CFR 133.102(a)(1) for total suspended solids and biochemical oxygen demand (5-day) daily average of 30 mg/1; and based on secondary standards under 40 CFR 133.102(a)(2) for total suspended solids and biochemical oxygen demand (5-day) daily maximum of 45 mg/1. However, under BPJ total suspended solids limitations of 90 mg/1 daily average and 135 mg/1 daily maximum are allowed for BCT for facilities in which waste stabilization ponds are the primary treatment.

BPJ for BCT is based on established State and EPA conditions for private domestic and POTW facilities for bacteria limitations for fecal coliform of 200/100 ml (monthly log mean) and 400/100 ml (daily maximum).

This permit applies only to facilities with design capacities (flows) greater than 2500 gpd.

F. Monitoring and Reporting Requirements

For facilities with a design flow of greater than 2,500 gpd and less than 10,000 gpd monitoring for flow, total suspended solids, biochemical oxygen demand (5-day), fecal coliform and pH is required once per quarter. For facilities with design flows of 10,000 gpd and no greater than 25,000 gpd, monitoring is required once per month. For facilities with design flows greater than 25,000 gpd and less than 100,000 gpd, monitoring for flow is required once per week and monitoring for the other parameters is required once per month. For facilities with design flows of 100,000 gpd or greater, flow monitoring is required 5/week and monitoring for the other parameters is required once per week.

Part II.C.4. ("Reporting of Monitoring Results") of the draft permit requires that certain monitoring results be summarized and reported on Discharge Monitoring Reports (DMR) Forms (EPA No. 3320–1) on an annual basis. Part 11.D.6. ("Twenty-Four Hour Reporting") requires that any unanticipated bypass and any upset that exceeds any effluent limitation in the permit must be reported within 24 hours. Also, any noncompliance which may endanger human health or the environment should be reported.

II. The Nature of Discharges From Private Domestic Sources

The source of wastewater discharges from private domestics is sanitary sewage which is amenable to biological treatment. There are no toxic or priority pollutants present.

III. Conditions in the General Permit

A. Geographic Areas and Covered Facilities

The draft permit, when issued, will authorize discharges from facilities at various locations within East Baton Rouge Parish, Louisiana, to various storm sewers, tributaries, stream segments and river basins. The permit will be applicable only to private domestic discharges which have direct discharges to "waters of the United States" as defined in 40 CFR 122.2 and are therefore subject to the requirements of Sections 301 and 402 of the Act.

B. Private Domestic Discharges

The facilities covered by this permit are dischargers of domestic wastes. These facilities are not publicly owned treatment works (POTW) as defined under 40 CFR 122.2. Within East Baton Rouge Parish there is a significant number of private domestic dischargers which are covered by recently revised area wide policies of the Louisiana Department of Environmental Quality for discharges into Water Quality Management Segments 0401, 0402 and 0403. The nature of effluents from these facilities involves the same type of operations, discharge of the same types of wastewater, and the same effluent limitations and monitoring requirements. Therefore, these facilities are more appropriately controlled by a general permit. In addition, the general permit will eliminate or reduce, for the Agency, the time consuming process of drafting and issuing individual permits and similarly eliminate, for the dischargers, the regulatory burden of applying for and obtaining individual permits.

IV. Other Legal Requirements

A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue a NPDES permit until the State in which the discharge will originate, grants or waives certification to ensure compliance with appropriate requirements of the Act and State law, including water quality standards. Region VI has requested the State of Louisiana to certify this draft general permit.

B. Water Quality Standards

Section 301(b)(1)(C) of the Act requires that NPDES permits contain limitations necessary to meet water quality standards established pursuant to State law or regulation or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. This draft general permit contains effluent limitations which meet the requirements of section 301(b)(1)(C) including the applicable water quality standards of Louisiana as provided in the Water Quality Management Plan as referenced in Section 1.B. of this Fact Sheet.

C. Endangered Species Act

In accordance with 16 U.S.C. 1531 et seq. section 7 of the Act and implementing regulations (50 CFR Part 402), I hereby certify that this general NPDES permit will not impact an endangered species.

D. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish

to the Director, upon request, copies of records required to be kept by this permit.

E. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

F. Transfers

This permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

G. Economic Impact (Executive Order 12291)

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

H. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of this permit have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

I. The Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, the permits reduce a significant administrative burden on regulated sources.

Dated: July 21, 1987.

Robert E. Layton Jr., P.E.,

Regional Administrator, Region VI.

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), within East Baton Rouge Parish, Louisiana, operators engaged in the generation of private domestic wastes with design flows greater than 2,500 gpd are authorized to discharge to various storm sewers, tributaries, stream segments and river basins, which are waters of the United States as defined in 40 CFR 122.2, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof.

Operators within the general permit area must make a written notification to the Regional Administrator that they intend to be covered by this general permit (See Part III.B.)

This permit shall become effective on _____.

This permit and the authorization to discharge shall expire at midnight, _____.

Myron O. Knudson,

Director, Water Management Division (6W).

Part I—Requirements for NPDES Permits

Section A. Effluent Limitations and Monitoring Requirements

Outfall 101

During the period beginning the effective date and lasting through the expiration date, the permittee is authorized to discharge from Outfall 101—treated sanitary wastes from private domestic facilities with design flows of greater than 2,500 gpd and less than 10,000 gpd.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations, units (specify)	
	Daily Avg	Daily Max
Flow (MGD)	(*1)	(*1)
Total suspended solids.	30 mg/l(*4)	45 mg/l(*4)
Biochemical oxygen demand (5-day).	30 mg/l	45 mg/l
Fecal coliform	200/100 ml(*3).	400/100 ml

Effluent characteristic	Monitoring requirements	
	Measurement frequency	Sample type
Flow (MGD)	1/Quarter(*2)	Estimate.
Total suspended solids.	1/Quarter	Grab.
Biochemical oxygen demand (5-day).	1/Quarter	Grab.
Fecal coliform	1/Quarter	Grab.

(*1) Report.
(*2) When discharge occurs.
(*3) Monthly log mean.
(*4) For facilities in which waste stabilization ponds are the primary treatment, 90 mg/l daily average and 135 mg/l daily maximum.

Outfall 101

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/quarter by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the point of discharge from the treatment plant.

Part I.—Requirements for NPDES Permits

Section A. Effluent Limitations and Monitoring Requirements

Outfall 201

During the period beginning the effective date and lasting through the expiration date, the permittee is authorized to discharge from Outfall 201—treated sanitary wastes from private domestic facilities with design flows of 10,000 gpd to 25,000 gpd.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations, units (specify)	
	Daily Avg	Daily Max
Flow (MGD)	(*1)	(*1)
Total suspended solids.	30 mg/l(*4)	45 mg/l(*4)
Biochemical oxygen demand (5-day).	30 mg/l	45 mg/l
Fecal coliform	200/100 ml(*3).	400/100 ml

Effluent characteristic	Monitoring requirements	
	Measurement frequency	Sample type
Flow (MGD)	1/Month(*2)	Estimate.
Total suspended solids.	1/Month	Grab.
Biochemical oxygen demand (5-day).	1/Month	Grab.
Fecal coliform	1/Month	Grab.

(*1) Report.
(*2) When discharge occurs.
(*3) Monthly log mean.
(*4) For facilities in which waste stabilization ponds are the primary treatment, 90 mg/l daily average and 135 mg/l daily maximum.

Outfall 201

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/month by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the point of discharge from the treatment plant.

Part I.—Requirements for NPDES Permits

Section A. Effluent Limitations and Monitoring Requirements

Outfall 301

During the period beginning the effective date and lasting through the expiration date, the permittee is authorized to discharge from Outfall 301—treated sanitary wastes from private domestic facilities wth design flows greater than 25,000 gpd and less than 100,000 gpd.

Such discharges shall be limited and Monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations, units (specify)	
	Daily Avg.	Daily Max.
Flow (MGD)	(*1)	(*1).
Total suspended solids.	30 mg/l(*5)	45 mg/l(*5).
	15 mg/l(*2)	23 mg/l(*2).
Biochemical oxygen demand (5-day).	30 mg/l	45 mg/l.
	10 mg/1 (*2)	15 mg/l(*2).
Fecal coliform	200/100 ml(*4).	400/100 ml.

Effluent characteristic	Monitoring requirements	
	Measurement frequency	Sample type
Flow (MGD)	1/Week(*3)	Estimate.
Total suspended solids.	1/Month	Grab.
Biochemical oxygen demand (5-day).	1/Month	Grab.
Fecal coliform	1/Month	Grab.

(*1) Report.
(*2) Applicable to facilities schedule (a) from the permit effective date for facilities which were built, modified or upgraded after September 30, 1986, or schedule (b) by October 1, 1991, for facilities existing as of September 30, 1986.
(*3) When discharge occurs.
(*4) Monthly log mean.
(*5) For facilities in which waste stabilization ponds are the primary treatment, 90 mg/l daily average and 135 mg/l daily maximum.

Outfall 301

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/month by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the point of discharge from the treatment plant.

Part I.—Requirements for NPDES Permits

Section A. Effluent Limitations and Monitoring Requirements

Outfall 401

During the period beginning the effective date and lasting through the expiration date, the permittee is authorized to discharge from Outfall 401—treated sanitary wastes from private domestic facilities with design flows of 100,000 gpd or greater.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations units (specify)	
	Daily Avg	Daily Max
Flow (MGD)	(*1)	(*1)
Total Suspended Solids.	30 mg/l(*5)	45 mg/l(*5)
	15 mg/l(*2)	23 mg/l(*2)
Biochemical Oxygen Demand (5-day).	30 mg/l	45 mg/l
	10 mg/l(*2)	15 mg/l(*2)
Ammonia (as N)	5 mg/l(*2)	10 mg/l(*2)
Fecal coliform	200/100 ml(*4).	400/100 ml

Effluent characteristic	Monitoring requirements	
	Measurement frequency	Sample type
Flow (MGD)	5/Week(*3)	Instantaneous.
Total suspended solids.	1/Week	Grab.
Biochemical oxygen demand (5-day).	1/Week	Grab.
Ammonia (as N)	1/Week	Grab.
Fecal coliform	1/Week	Grab.

(*1) Report.
(*2) Applicable to facilities schedule (a) from the permit effective date for facilities which were built, modified or upgraded after September 30, 1986, or schedule (b) by October 1, 1991, for facilities existing as of September 30, 1986.
(*3) When discharge occurs.
(*4) Monthly log mean.
(*5) For facilities in which waste stabilization ponds are the primary treatment, 90 mg/l daily average and 135 mg/l daily maximum.

Outfall 401

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/week by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the point of discharge from the treatment plant.

Section B. Other Discharge Limitations

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Section C. Permit Area

The area covered by this general permit includes all areas within East Baton Rouge Parish, Louisiana.

Section D. Schedule of Compliance

The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance wth the requirements of Section A of Part I.

Part II.—Standard Conditions for NPDES Permits

Section A. General Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions

The Clean Water Act provides that any person who violates sections 301, 302, 306, 307, 308, 318, or 405 or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation provided that a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. The Act also provides for criminal penalties.

3. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

a. Violation of any terms or conditions of this permit;

b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;

c. A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or,

d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under section 301 (b)(2)(C), and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

b. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

4. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" section B, paragraph 4.b. and "Upsets" section B, paragraph 5.b., nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

5. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Clean Water Act.

6. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Clean Water Act.

7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

8. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9. Definitions

The following definitions shall apply unless otherwise specified in this permit:

a. "Daily Average" discharge limitation means the highest allowable average of discharges over a calendar month, calculated as the sum of all discharges measured during a calendar month divided by the number of discharges measured during that month.

b. "Daily Maximum" discharge limitation means the highest allowable discharge during the calendar month.

c. The term "mg/l" shall mean milligrams per liter or parts per million (ppm).

Section B. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. Bypass of Treatment Facilities

a. Definitions. (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of section B, paragraphs 4.c. and 4.d. of this section.

c. Notice. (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in section D, paragraph 6 (24-hour notice).

d. Prohibition of bypass. (1) Bypass is prohibited, and the Director Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

(c) The permittee submitted notices as required under section B, paragraph 4.c.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in section B, paragraph 4.d.(1).

5. Upset Conditions

a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of section B, paragraph 5.c. are met. No

determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in section D, paragraph 6.

(4) The permittee complied with any remedial measures required under section B, paragraph 3.

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

Section C. Monitoring and Records

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. False Statements

Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

4. Reporting of Monitoring Results

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report (DMR) Form (EPA No. 3320–1). The annual average reported shall be the average for the twelve months of the highest sample for each month. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required herein, shall be submitted to EPA and to the State at the following addresses:

Director Water Management Division (6W), Region VI, U.S. Environmental Protection Agency, P.O. Box 50625, Dallas, Texas 75250

J. Dale Givens, Assistant Secretary for Water, Office of Water Resources, Louisiana Department of Environmental Quality, P.O. Box 44091, Baton Rouge, Louisiana 70804–4091

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased monitoring frequency shall also be indicated on the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Administrator at any time.

8. Record Contents

Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and,

f. The results of such analyses.

9. Inspection and Entry

The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. Planned Changes

The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b) [48 FR 14153, April 1, 1983, as amended at 49 FR 38046, September 26, 1984]; or

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1) [48 FR 14153, April 1, 1983, as amended at 49 FR 38046, September 26, 1984].

2. Anticipated Noncompliance

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

4. Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Section C, paragraph 5 (Monitoring).

5. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

6. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

The following shall be included as information which must be reported within 24 hours:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit.

b. Any upset which exceeds any effluent limitation in the permit.

c. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Administrator in Part III of the permit to be reported within 24 hours.

7. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under section D, paragraphs 4, 5, and 6, at the time monitoring reports are submitted. The reports shall contain the information listed in section D, paragraph 6.

8. Changes in Discharges of Toxic Substances

The permittee shall notify the Regional Administrator as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, in a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(1) i and ii.

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(2) i and ii.

9. Duty to Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator upon request, copies of records required to be kept by this permit.

10. Signatory Requirements

All applications, reports, or information submitted to the Regional Administrator shall be signed and certified.

a. All permit applications shall be signed as follows:

(1) For a corporation—by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

(3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(i) The chief executive officer of the agency, or

(ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. All reports required by the permit and other information requested by the Regional Administrator shall be signed by a person described above or by a duly authorized representative of that person.

A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above.

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and,

(3) The written authorization is submitted to the Regional Administrator.

c. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations.

11. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of the Director. As required by the Clean Water Act, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

Section E. Notification Requirements

1. Commencement of Operations

Written notification of commencement of operations, including the legal name and address of the discharger and the name commonly assigned to the facility shall be submitted:

a. Within 45 days of the effective date of this permit by operators whose facilities are discharging into the general permit area on the effective date of the permit.

b. Fourteen days prior to the commencement of discharge by operators whose facilities commence discharge subsequent to the effective date of this permit.

2. Termination of Operations

Operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities.

Section F. Additional General Permit Conditions

1. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved;

or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring;

and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. When an Individual NPDES Permit may be Requested

(a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than (90 days after the publication).

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III.—Other Conditions

A. Private Domestic Treatment Works means any device or system which is (a) used to treat domestic wastes and (b) is not a "POTW" as defined under 40 CFR 122.2.

B. Operators requesting to be covered by this general permit shall notify the Regional Administrator of any prior application for an individual permit or issued individual permit and shall identify any NPDES number which was assigned to the application or individual permit. Operators who have applied for but have not been issued an individual NPDES permit, and not wishing to be covered by this general permit, shall also notify the Regional Administrator of the NPDES number for the prior application and shall be required to reapply for an individual, NPDES permit.

C. With notification, operators requesting to be covered by this general permit shall report 1) the design flow of the facility and identify the outfall and schedule (where applicable) to their facilities, i.e., Outfall 101, Outfall 201, Outfall 301 schedule (a), Outfall 301 schedule (b), Outfall 401 schedule (a) or Outfall 401 schedule (b); and 2) identify if waste stabilization ponds are the primary treatment.

[FR Doc. 87-17056 Filed 7-28-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

July 21, 1987.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearanace under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Terry Johnson, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0212
Title: Section 73.2080, Equal Employment Opportunity Program
Action: Revision
Respondents: Broadcast stations
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 11,703 Recordkeepers; 608,556 Hours
Needs and Uses: Section 73.2080 requires that each broadcast station shall establish, maintain and carry out a program to assure equal opportunity in every aspect of a broadcast station's policy and practice. This rule section provides that equal opportunity in employment shall be afforded by all broadcast stations to all qualified persons, regardless of race, color, religion, national origin or sex. The data is used by broadcast licensee in preparation of its EEO Program (FCC 396) submitted with its application for renewal of license.

OMB Number: None
Title: Broadcast Station Annual Employment Report
Form Number: FCC 395–B
Action: New collection
Frequency of Response: Annually
Estimated Annual Burden: 11,000 Responses; 9,680 Hours
Needs and Uses: Filing is required by all licensees and permittees of AM, FM, TV, Low Power TV, and international broadcast stations. The data is used to assess compliance with the Commission's fair employment requirements, and identifies the respondent's staff by gender, race, color and/or national origin in each of nine major job categories.

OMB Number: 3060–0113
Title: Broadcast Equal Employment Opportunity Program Report
Form Number: FCC 396
Action: Revision
Frequency of Response: Every 5 years for TV; every 7 years for radio
Estimated Annual Burden: 345 Responses; 1,035 Hours
Needs and Uses: Filing is required by all licensees of AM, FM, TV, Low Power TV, and international stations with five or more full-time employees when applying for renewal. The report describes the station's program for recruitment, hiring, and promotion. Training information is optional. The data is used to review and assess the licensee's policies and practices, and compliance with the Commission's fair employment requirements.

OMB Number: 3060–0120
Title: Broadcast Equal Employment Opportunity Model Program Report
Form Number: FCC 396–A
Action: Revision
Frequency of Response: Upon application
Estimated Annual Burden: 2,753 Responses; 2,753 Hours
Needs and Uses: Filing is required with applications for authority to construct a new broadcast station, to obtain assignment of the construction permit or license of such a station, or to acquire control of an entity holding such a permit or license. An equal employment opportunity program must be established by any station proposing five or more full-time employees. The data is used to assess the applicant's proposal to ensure compliance with the Commission's fair employment requirements.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87–17176 Filed 7–28–87; 8:45 am]
BILLING CODE 6712–01–M

Common Carrier Services; Federal-State Joint Board Proceedings

In the Matters of Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, FCC 87–222, CC Docket No. 80–286.

Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, FCC 87–223, CC Docket No. 85–124.

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers in the Contiguous States and Alaska, Hawaii, Puerto Rico and Virgin Islands, FCC 87–224, CC Docket No. 83–1376.

Order

Adopted: June 24, 1987.
Released: July 8, 1987.
By the Commission:

1. On April 17, 1987, Mark S. Fowler the Chairman of the Federal Communications Commission resigned his position. Pursuant to secton 410(c) of the Communications Act of 1934,[1] Chairman Fowler had served as Chairman of the Federal-State Joint Board in CC Dockets 80–286, 85–124, and 83–1376.

2. Federal Communications Commissioner Dennis R. Patrick was appointed as the new Chairman of the Commission and assumed his responsibilities as Chairman on April 18, 1987. Therefore, pursuant to section 410(c), Chairman Dennis R. Patrick has served as Chairman of the Federal-State Joint Board in CC Dockets 80–286, 85–124, and 83–1376 since that date.

3. Accordingly, it is ordered that Dennis R. Patrick, Chairman of the Federal Communications Commission serve as Chairman of the Federal-State Joint Board in the above-mentioned proceedings.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87–17162 Filed 7–28–87; 8:45 am]
BILLING CODE 6712–01–M

[DA–87–905]

Specialized Mobile Radio Service, Frequencies To Be Available For Reassignment

The following channels were recently recovered from licensees who failed to meet the Commission's loading or construction requirements and will be available for reassignment to trunked Specialized Mobile Radio (SMR) applicants. They were previously licensed at the coordinates indicated and are available at any location within the geographic area which will protect exising SMR systems pursuant to Rules 90.362 and 90.621.

865–860./1375 MHx, Santa Barbara, CA, 34–31–36 North, 119–58–39 West
856/860.1125 MHz Santa Barbara, CA, 34–31–36 North, 119–35–39 West
856/860.0625 MHz, Vandenberg AFB, CA, 34–49–27 North, 120–30–06 West
856/860.6625 MHz, Westwego, LA, 29–54–36 North, 90–11–48 West
856/860.5375 MHz, New Indrial, CA, 36–22–04 North, 120–38–31 West
856/860.0875 MHz, Lebec, CA, 34–54–10 North, 118–54–15 West
856/860.6625 MHz, San Antonio, TX, 29–30–28 West, 98–34–09 West
864. 0875, 864.5375, 864.9875, 865.4375 & 865.8875 MHz, Syracuse, NY, 43–02–38 North, 76–09–09 West.

Pursuant to the Public Notice of January 6, 1986, Mimeo No. 1805 these channels will be available for reassignment on August 13, 1987. All applications received before August 13, 1987 will be dismissed. The first application received after the channels become available for reassignment opens the filing window. The window stays open only for the day on which the first application is received. *All applications MUST reference the date and DA number of this Public Notice in order to be considered for these frequencies.*

There is a $30.00 fee required for each application filed. All checks should be made payable to the FCC. Applications should be mailed to: Federal Communications Commission, 800 Megahertz Service, P.O. Box 360416M, Pittsburgh, PA 15251–6416. Applications may also be filed in person between 9:00 AM and 3:00 PM at the following address: Federal Communications Commission, c/o Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th Floor, Room 153–2713, Pittsburgh, PA 15259, Attention: (Wholesale Lockbox Shift Supervisor).

For further information, refer to Public Notice of January 6, 1986 or contact Riley Hollingsworth or Betty Woolford (202) 632–7125 of the Private Radio Bureau's Land Mobile and Microwave Division.

Federal Communications Commission
William J. Tricarico,
Secretary.
[FR Doc. 87–17178 Filed 7–28–87; 8:45 am]
BILLING CODE 6712–01–M

[1] 47 U.S.C. 410(c) (1986).

[RM-5811]

Freeze on Applications to Amend TV Table of Allotments

AGENCY: Federal Communications Commission.

ACTION: Order; Freeze on applications to amend TV table of allotments and construction permit applications for currently vacant allotments.

SUMMARY: The action taken herein temporarily freezes the TV Table of Allotments in or around certain metropolitan areas. Consequently, no new petitions to amend the Table will be accepted, and no applications for vacant allotments in the Table will be accepted. However, applications already on file to amend the Table or for vacant allotments will continue to be processed normally, and applications mutually exclusive with TV applications already announced as acceptable for filing on "cut-off" lists may be tendered. The Commission determined that this action was necessary in order to preserve the future possibility of allotting additional spectrum to existing television broadcasters for use with advanced television systems.

EFFECTIVE DATE: July 16, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Terry L. Haines, Policy and Rules Division, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of the Cities Affected by this Freeze

New York, NY
Los Angeles, CA
Chicago, IL
Philadelphia, PA
San Francisco, CA
Boston, MA
Detroit, MI
Dallas-Ft. Worth, TX
Washington, DC
Houston, TX
Cleveland, OH
Pittsburgh, PA
Seattle-Tacoma, WA
Miami, FL
Atlanta, GA
Minneapolis-St. Paul, MN
Tampa-St. Petersburg, FL
Saint Louis, MO
Denver, CO
Sacramento-Stockton, CA
Indianapolis, IN
Hartford-New Haven, CT
Portland, OR
Milwaukee, WI
Cincinnati, OH
Kansas City, MO
Charlotte, NC
Nashville, TN
Columbus, OH
New Orleans, LA

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-17179 Filed 7-28-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217-010051-013.
Title: Mediterranean Force Majeure Agreement.
Parties:

Compania Transatlantica Espanola (Spanish Line)
Costa Container Line
Farrell Lines, Inc.
Italia di Vanigazione, S.p.A.
Jugolinija
Lykes Bros. Steamship Co., Inc.
A.P. Moller Maersk Line
Sea-Land Service, Inc.
Zim Israel Navigation Co., Inc.

Synopsis: The proposed amendment would add Nedlloyd Lijnen, B.V. as a member of the agreement. The parties have requested a shortened review period.

Agreement No.: 202-010689-026.
Title: Transpacific Westbound Rate Agreement.
Parties:

American President Lines, Ltd.
Hanjin Container Lines, Ltd.
Hyundai Merchant Marine Co., Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.
Orient Overseas Container Line, Inc.

Synopsis: The proposed amendment would permit a party taking independent action (IA), subsequent to its original notice of IA, to elect to state an expiration date originally overlooked. It would also allow "following" IAs to adopt such expiration dates.

Agreement No.: 203-010977-004.
Title: Hispaniola Discussion Agreement.
Parties:

United States Atlantic and Gulf/Hispaniola Steamship Freight Association
Zim Israel Navigation Co. (Zim)
Seaboard Caribe Ltd.
Overseas Transport International Corp.
R.B. Kirkconnell & Bro. Ltd.

Synopsis: The proposed amendment would alter the scope of Zim's participation in the agreement to more accurately reflect their service in the agreement trade. The parties have requested a shortened review period.

Agreement No.: 206-011139.
Title: Europact.
Parties:

North Europe-United States Pacific Freight Conference
North Europe-U.S. Gulf Freight Association
North Europe-U.S. Atlantic Conference

Synopsis: The proposed agreement would permit the parties to meet and otherwise to communicate and to agree upon rates, tariffs, practices and conditions of service in the trade from ports and points in the United Kingdom, Ireland, Scandinavia and Northern Europe to U.S. ports and points in the forty-eight contiguous states. Adherence to any agreement reached would be voluntary. The parties would also be authorized to take independent action immediately upon notice.

Agreement No.: 206-011140.
Title: Amercorde.
Parties:

Pacific Coast European Conference
Gulf-European Freight Association
U.S. Atlantic-North Europe Conference

Synopsis: The proposed agreement would permit the parties to meet and otherwise to communicate and to agree upon rates, tariffs, practices and conditions of service in the trade to

ports and points in the United Kingdom, Ireland, Scandinavia and Northern Europe from U.S. ports and points in the forty-eight contiguous states. Adherence to any agreement reached would be voluntary. The parties would also be authorized to take independent action immediately upon notice.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: July 24, 1987.

[FR Doc. 87-17181 Filed 7-28-87; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 87-16]

Filing of Complaint and Assignment; Halliburton Co. v. Dansk Steamship Lines and Peter Peterson

Notice is given that a complaint filed by Halliburton Company ("Halliburton") against Dansk Steamship Lines and its President, Peter Peterson ("Dansk") was served July 22, 1987. Halliburton alleges that Dansk has violated section 10(b)(1) Shipping Act of 1986, 46 U.S.C. app. 1709(b)(1), by charging, demanding, collecting, or receiving greater compensation for the transportion of certain commodities than the rates shown in Dansk's applicable tariff.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by July 22, 1988, and the final decision of the Comnission shall be issued by November 22, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 87-17096 Filed 7-28-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Application to Engage de Novo in Permissible Nonbanking Activities; Clintonville Bancshares, Inc., et al.

The company listed in this notice has 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.

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.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 20, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Clintonville Bancshares, Inc.*, Clintonville, Wisconsin; to engage *de novo* in selling insurance annuities to customers pursuant to § 225.25(b)(8)(vi) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17109 Filed 7-28-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Dominion Bankshares Corp., 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 section 225.14 of the Board's Regulation Y (12 C.F.R. 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 21, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia; to merge with UNB Corporation, Fayetteville, Tennessee, and thereby indirectly acquire Union National Bank, Fayetteville, Tennessee.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Park County Bancshares, Inc.*, Livingston, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of First National Park Bank in Livingston, Livingston, Montana. Comments on this application must be received by August 17, 1987.

Board of Governors of the Federal Reserve System, July 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17110 Filed 7-28-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisitions of Shares of Banks or Bank Holding Companies; Gary L. Kelley et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 13, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Gary L. Kelley,* Minatare, Nebraska; to acquire 100 percent of the voting shares of Minatare State Company, Minatare, Nebraska, and thereby indirectly acquire The Minatare State Bank, Minatare, Nebraska.

2. *Sumner Schlenk,* Selden, Kansas; to acquire 10 percent of the voting shares of Selden Investments, Inc., Selden, Kansas, and thereby indirectly acquire Selden State Bank, Selden, Kansas.

Board of Governors of the Federal Reserve System, July 23, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17111 Filed 7-28-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, on August 3-4, 1987, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on August 3, from 7:30 p.m. to 9:00 p.m. and 8:00 a.m. to 9:30 a.m. August 4, to review administrative details and other cancer control review issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 4 from approximately 9:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning inndividuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide information of the meeting and rosters of committee members, upon request.

Dr. Carolyn Strete, Executive Secretary, Cancer Control Grant Review Committee, National Cancer Institute, Westwood Building, Room 810, National Institutes of Health, Bethesda, Maryland 20892 (301/496-2378) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting because of the difficulty of coordinating the attendance of members due to unforeseen conflicting schedules.

Dated: July 27, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 17349 Filed 7-28-87; 8:53 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Alaska

[AK-965-4213-15; F-14880-E]

Alaska Native Claims Selection; Kikiktagruk Inupiat Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Kikiktagruk Inupiat Corporation for approximately 1 acre. The lands involved are in the vicinity of Kotzebue, Alaska.

Kateel River Meridian

T. 15 N., R. 18 W., (Unsurveyed)

Sec. 2, fractional, those lands formerly within ANCSA Sec. 3(e) application F-23136, excluded from Interim Conveyance No. 544, dated September 2, 1982.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Tundra Times.* Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until August 28, 1987, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Virginia M. Ezell,

Acting Chief, Branch of Northwest Adjudication.

[FR Doc. 87-17139 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-JA-M

[CA-050-06-4333-12]

Closure of Public Lands in the Cache Creek ACEC Lake and Yolo Counties, CA

SUMMARY: In cooperation with the California State Department of Fish & Game, and under authority of 43 CFR 8364.1, the Bureau of Land Management is designating a vehicular closure of public lands and trails within the Cache Creek ACEC (Area of Critical Environmental Concern), located in Lake and Yolo Counties, California, and an additional area of Tule elk habitat improvements located just outside of the ACEC in Lake County.

All vehicular use except for any existing public access, any administrative access, or any use associated with prior valid existing rights are prohibited year-round.

DATES: This closure is effective on July 29, 1987.

SUPPLEMENTARY INFORMATION: The purpose of this closure is to protect sensitive wildlife and archaeological values found in the Cache Creek ACEC from damage caused by four-wheel drive and other off-road-vehicles. In addition, trespass and vandalism of private property adjacent to this vehicular closure area have been a constant problem because the only access to the public lands in the majority of the ACEC is through private property.

The ACEC includes all public lands ½ mile on either side of Cache Creek in T.12N, R.4W; T.12N., R.5W.; T.13N., R.5W; T.13N., R.6W, Mt. Diablo Meridian; and all public lands ½ mile on either side of the North Fork of Cache Creek downstream of the State Highway 20 overcrossing in T.13N, R.6W, Mt. Diablo Meridian. The vehicular closure will also apply to any future land acquisitions by the Bureau within the ACEC. The Tule elk habitat improvements covered by this closure consist of two water impoundments and approximately 150 acres of brush-to-grass conversions and are located in T.13N., R.6W, Sec. 5, 7, 8, and 9, Mt. Diablo Meridian.

Excepted areas and certain activities within the ACEC in which this vehicular closure does not apply include access on existing public roads (Lang's Peak and Perkins Creek Ridge roads), any administrative type uses occurring throughout the ACEC including monitoring, studies, and law enforcement patrols; or any valid existing rights such as mining claims or other leases.

This closure is consistent with the Rocky Creek/Cache Creek Wilderness Study Area Final Environmental Impact Statement, and the Cache Creek ACEC Management plan.

Copies of a map showing the designated closure areas are available from the Bureau of Land Management Office, 555 Leslie Street, Ukiah, California 95482.

FOR FURTHER INFORMATION CONTACT: Gregg Mangan, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482. Phone (707) 462-3873.

Date: July 21, 1987.

Al Wright,

Ukiah District Manager.

[FR Doc. 87-17140 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-40-M

[WY-920-07-4111-15; W-60420]

Proposed Reinstatement of Terminated Oil and Gas Lease; Campbell County, WY

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-60420 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-60420 effective October 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87-17141 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-07-4111-15; W-78159]

Proposed Reinstatement of Terminated Oil and Gas Lease; Natrona County, WY

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-78159 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-78159 effective June 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87-17142 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-07-4111-15; W-84812]

Proposed Reinstatement of Terminated Oil and Gas Lease; Natrona County, WY

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-84812 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-84812 effective June 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87-17144 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-07-4111-15; W-88020]

Proposed Reinstatement of Terminated Oil and Gas Lease; Natrona County, WY

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-88020 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16 2/3 percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-88020 effective June 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87-17145 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-07-4111-15; W-78879-L]

Proposed Reinstatement of Terminated Oil and Gas Lease; Johnson County, WY

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-78879-L for lands in Johnson County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-78879-L effective November 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87-17143 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-22-M

[NM-030-07-4410-08]

Intent To Prepare Resource Management Plan Amendment; White Sands Resource Area, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare the White Sands Resource Management Plan Amendment for McGregor Range and invitation to participate in identification of the issue.

SUMMARY: The Bureau of Land Management (BLM), Las Cruces District, New Mexico, is initiating the preparation of a Resource Management Plan (RMP) Amendment, which will include an Environmental Impact Statement (EIS), for the McGregor Range area in Otero County in south-central New Mexico. Tne plan amendment will guide BLM programs and management practices on McGregor Range.

The public is invited to contribute to the planning process, beginning with participation in the identification of issues. Scoping meetings for public input will be held in Las Cruces, Timberon, and Alamogordo, New Mexico and in El Paso, Texas.

DATE: Comments relating to the identification of issues will be accepted until August 31, 1987.

ADDRESS: Comments should be sent to: Willis Bird, Team Leader, Bureau of Land Management, Las Cruces District, White Sands Resource Area, 1800 Marquess Street, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Bob Alexander, Area Manager, or Willis Bird, Team Leader, White Sands Resource Area, (505) 525-8228.

SUPPLEMENTARY INFORMATION: The planning area will include the 608,384-acre McGregor Range area in Otero County, New Mexico. A map showing the area is available in the White Sands Resource Area Office.

The single planning issue proposed for the White Sands RMP Amendment is as follows: To what degree will public use of the resources of McGregor Range be Allowed? Public use of McGregor Range is limited by conditions and restrictions necessary for military uses of the land or the purposes stated in the Military Lands Withdrawal Act of 1986 (Pub. L. 99-606). For resources and uses under BLM's administration and control, the RMP Amendment will consider the degree of public use of those resources.

The RMP Amendment will be developed by an interdisciplinary team consisting of a Team Leader, Technical Coordinator, Writer-Editor, Range Conservationist, Realty Specialist, Wildlife Biologist, Geologist, Outdoor Recreation Planner, Fire Management Specialist, Archaeologist, and Socio-Economist. Additional technical support will be provided by other specialists as needed. The RMP Amendment will be developed in coordination with the Department of the Army.

Public participation activities during the planning process will include consultation with affected users and other agencies, meetings with interested groups and individuals, mail outs, media notices, Federal Register notices, public meetings, and distribution of the draft and the final amendment and EIS for comments.

Four public scoping meetings will be held to obtain public input on resource management concerns on McGregor Range. The public scoping meetings will be held at the following times and locations:

August 18, 1987, 1:30 p.m., BLM District Office, 1800 Marquess Street, Las Cruces, New Mexico.

August 19, 1987, 7 p.m., Basement Conference Room, City Hall, No. 2 Civic Center Plaza, El Paso, Texas.

August 20, 1987, 7 p.m., Timberon Lodge Annex, Timberon, New Mexico.

August 21, 1987, 1:30 p.m., Chamber of Commerce, 1301 White Sands Blvd., Alamogordo, New Mexico.

Complete records of the planning process will be available for public review at the White Sands Resource Area Office at the address above.

Dated: July 23, 1987.

Robert L. Shultz,

Acting State Director.

[FR Doc. 87-17107 Filed 7-28-87; 8:45 am]

BILLING CODE 4310-FB-M

[CO-940-07-4220-11; C-033334]

Proposed Continuation of Withdrawal; Colorado

July 20, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for use as various recreation areas and campgrounds, be modified and the withdrawal be continued for 20 years insofar as it affects 218.11 acres of National Forest System land. The land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received within 90 days of publication date.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 303–236–1768.

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Public Land Order 2553, dated December 11, 1961, as amended, for an indefinite period of time, be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following identified lands:

Sixth Principal Meridian

Arapaho National Forest

Horseshoe Campground

T. 2 S., R. 78 W., unsurveyed,
Beginning at corner No. 1, from which the section corner common to sections 13, 14, 23, and 24, T. 2 S., R. 78 W., 6th P.M., Colorado, bears S. 17° 30' E., 11,400 ft.
From corner No. 1, by metes and bounds, N. 78° W., 400 ft., to corner No. 2; N. 25° W., 240 ft., to corner No. 3; S. 85° E., 504 ft., to corner No. 4; S. 2° W., 257 ft., to corner No. 1, the place of beginning.

New Mexico Principal Meridian

San Juan National Forest

East Fork Campground

T. 36 N., R. 1 E.,
Sec. 7, SE¼NW¼NW¼ and NE¼SW¼NW¼.

Cimarron Campground

T. 38 N., R. 3 W.,
Sec. 8, NE¼SE¼SW¼ and S½SE¼SW¼.

First Fork Campground

T. 36 N., R. 4 W.,
Sec. 28, SE¼SW¼;
Sec. 33, N½NE¼NW¼.

Thompson Park Campground

T. 36 N., R. 12 W.,
Sec. 28, S½S½SW¼SW¼;
Sec. 29, SE¼SE¼SE¼SE¼;
Sec. 32, NE¼NE¼NE¼NE¼;
Sec. 33, that portion of NW¼NW¼ north of U.S. Highway 160.

Gunnison National Forest

Pitkin Recreation Area

T. 50 N., R. 4 E.,
Sec. 10, lots 5 and 6.

The areas described aggregate 218.11 acres in Archuleta, Grand, Gunnison, Hinsdale, and La Plata Counties.

The purpose of this withdrawal is for the administration and protection of various recreation areas and campgrounds. No change is proposed in the purpose or segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of the final determination will be published in the **Federal Register**. The existing withdrawal will continue until such determination is made.

Richard D. Tate,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–17146 Filed 7–28–87; 8:45 am]

BILLING CODE 4310–JB–M

Geological Survey

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202–395–7340.

Title: NAWQA Program Interviews

Abstract: Respondents supply information on type of data they have collected and would be willing to share which would be useful to the National Water-Quality Assessment (NAWQA) program. This information allows the Bureau to determine what type of data have already been collected in order to prevent duplication of effort

Bureau Form Number: None

Frequency: Once only

Description of Respondents: Various major water science and water management agencies

Annual Responses: 23

Annual Burden Hours: 138

Bureau Clearance Officer: Geraldine A. Wilson, 703–648–7309.

Date: July 13, 1987.

Philip Cohen,

Chief Hydrologist.

[FR Doc. 87–17252 Filed 7–28–87; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Development Operations Coordination Document; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5542, block 98, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on July 20, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Service Office located on the 10th Floor of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that is is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: July 21, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–17147 Filed 7–28–87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965, 16 U.S.C. 20, public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Libbey Memorial Physical Medicine Center, Inc., authorizing it to continue to provide hydrotherapy, physical therapy, health spa and physical fitness facilities and services for the public at Hot Springs National Park, Arkansas, for a period of ten (10) years from January 1, 1988 through December 31, 1997.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act under 516 DM6 Appendix 7.4 A(6), and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which will expire by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, Hot Springs National Park, P.O. Box 1860, Hot Springs National Park, Arkansas 71901, telephone number (501) 624–3383, for information as to the requirements of the proposed contract.

John E. Cook,

Regional Director, Southwest Region.

[FR Doc. 87–17248 Filed 7–28–87; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk, Officer, Washington, DC 20503, telephone 202–395–7340.

Title: Application for Blaster Certification in Federal Program States and on Indian Lands

Abstract: This information is being collected to ensure that the qualification of applicants for blaster certification is adequate. This information will be used to determine the eligibility of the applicant. The affected public will be only those blasters who want to be certified by OSMRE

Bureau Form Number: OSM–74

Frequency: On Occasion

Description of Respondents: Blasters

Annual Responses: 500

Annual Burden Hours: 763

Bureau clearance officer: Darlene Grose-Boyd, (202) 343–5447.

Date: July 13, 1987.

Carson W. Culp,

Assistant Director, Budget and Administration.

[FR Doc. 87–17148 Filed 7–28–87; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–379 and 380 (Preliminary)]

Certain Brass Sheet and Strip From Japan and The Netherlands

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–379 and 380 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan and the Netherlands of certain brass sheet and strip,[1] provided for in item 612.39 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must

[1] For purposes of these investigations the term "certain brass sheet and strip" refers to brass sheet and strip, other than leaded brass and tin brass sheet and strip, of solid rectangular cross section over 0.006 inch but not over 0.188 inch in thickness, in coils or cut to length, whether or not corrugated or crimped, but not cut, pressed, or stamped to nonrectangular shape, provided for in items 612.3960, 612.3982, and 612.3986 of the Tariff Schedules of the United States Annotated (TSUSA). The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by these investigations.

complete preliminary antidumping investigations in 45 days, or in these cases by September 3, 1987.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's rules of practice and procedure, Part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–523–4612), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–724–0002. Information may also be obtained via electronic mail by calling the Office of Investigations' remote bulletin board system for personal computers at 202–523–0103. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to petitions filed on July 20, 1987, by counsel on behalf of American Brass, Buffalo, NY; Bridgeport Brass Corp., Indianapolis, IN; Chase Brass & Copper Co., Solon, OH; Hussey Copper, Ltd., Leetsdale, PA; The Miller Company, Meriden, CT; Olin Corp.—Brass Group, East Alton, IL; and Revere Copper Products, Inc., Rome, NY; domestic producers of brass sheet and strip, and on behalf of International Association of Machinists and Aerospace Workers, Washington, DC; International Union, Allied Industrial Workers of America (AFL–CIO), Milwaukee, WI; Mechanics Educational Society of America (Local 56), Rome, NY; and United Steelworkers of America (AFL–CIO/CLC), Pittsburgh, PA.

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on August 12, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Tedford Briggs (202–523–4612) not later than August 7, 1987, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before August 17, 1987, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 23, 1987.

[FR Doc. 87–17221 Filed 7–28–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–367–370 (Final)]

Color Picture Tubes From Canada, Japan, the Republic of Korea, and Singapore

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731–TA–367–370 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada, Japan, the Republic of Korea, and Singapore of color picture tubes, provided for in items 684.96 and 687.35 of the Tariff Schedules of the United States (TSUS),[1] that have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV).[2] Commerce will make its final LTFV determinations on or before November 12, 1987 (see section 735(a) of the act (19 U.S.C. 1673d(a))),[3] and the

[1] For purposes of these investigations, color picture tubes are defined as cathode ray tubes suitable for use in the manufacture of color television receivers or other color entertainment display devices intended for television viewing. Color picture tubes imported separately are provided for in item 687.35 of the TSUS; color picture tubes may also be imported as part of color television receiver kits or as part of incomplete television receiver assemblies, provided for in item 684.96 of the USUS.

[2] In its preliminary determinations, Commerce did not cover imports directly from Japan of color picture tubes imported as part of color television receiver kits, provided for in item 684.96 of the TSUS, and did not cover imports from the Republic of Korea of color picture tubes imported as part of color television receiver kits or as part of incomplete television receiver assemblies, provided for in item 684.96 of the TSUS.

[3] Commerce has given the Commission informal notice concerning the date of November 12, 1987, for its final determinations. Commerce's formal notice concerning the November 12, 1987, date will published in the **Federal Register**.

Commission will make its final injury determinations by December 22, 1987 (see section 735(b) of the act (19 U.S.C. 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: June 30, 1987.

FOR FURTHER INFORMATION CONTACT: George L. Deyman (202–523–0481), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of color picture tubes from Canada, Japan, the Republic of Korea, and Singapore are bring sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigations were requested in a petition filed on November 26, 1986, by the International Association of Machinists and Aerospace Workers; the International Brotherhood of Electrical Workers; the International Union of Electronic, Electrical, Technical, Salaried & Machine Workers, AFL–CIO–CLC; the United Steelworkers of America, AFL–CIO; and the Industrial Union Department, AFL–CIO, all of Washington, DC. Collectively, these labor unions represent employees of four of the five U.S. producers of color picture tubes. In response to the petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of color picture tubes from Canada, Japan, the Republic of Korea, and Singapore (52 FR 2459, January 22, 1987).

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 207.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.—A public version of the prehearing staff report in these investigations will be placed in the public record on November 3, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on November 19, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 9, 1987. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on November 13, 1987, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 13, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing breif must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 25, 1987. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 25, 1987.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission rules (19 CFR 201.6).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 21, 1987.

[FR Doc. 87–17222 Filed 7–28–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–260]

Commission Decision Not To Review Initial Determination Terminating One Respondent; Certain Feathered Fur Coats and Pelts, and Process for the Manufacture Thereof

AGENCY: International Trade Commission.

ACTION: Nonreview of initial determination terminating the above-captioned investigation as to one respondent.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to

review an initial determination (ID) granting a joint motion to terminate the investigation as to respondent Papadopouli Kevrekidis (Papadopouli) on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–563–0261.

SUPPLEMENTARY INFORMATION: On November 10, 1986, David Leinoff and David Leinoff, Inc. (Leinoff), filed a section 337 complaint with the Commission alleging unfair methods of competition and unfair acts in the importation and sale of certain feathered fur coats and pelts. Based on that complaint, the Commission instituted the above-captioned investigation. The notice of investigation referred to the following unfair acts: (1) Alleged infringement of claim 1 of U.S. Letters Patent 3,760,424 (the '424 patent), owned by Leinoff and (2) alleged manufacture abroad by a process which, if practiced in the United States, would infringe claim 5 of the '424 patent, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. 51 FR 46944 (December 29, 1986). The Commission's notice of investigation listed eleven respondents which were alleged to be in violation of section 337.

On June 11, 1987 complaints and respondent Papadopouli Kevrekidis filed a joint motion (Motion No. 260–16) to terminate the investigation as to Papadopouli on the basis of a settlement agreement.

On June 25, 1987, the presiding administrative law judge (ALJ) issued an ID (Order No. 18) granting joint Motion No. 260–16 and terminating the investigation as to Papadopouli on the basis of the settlement agreement.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rules 210.53–.55 (19 CFR 210.53–.55).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–1626. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 21, 1987.

[FR Doc. 87–17223 Filed 7–28–87;8:45am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–255]

Commission Decision To Extend the Deadline for Determining Whether To Review Final Initial Determination; Certain Garment Hangers

AGENCY: International Trade Commission.

ACTION: Extension of deadline for deciding whether to review final initial determination.

SUMMARY: Notice is hereby given that the Commission has determined to extend until August 13, 1987, the deadline by which it must decide whether to review the final initial determination (ID) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation.

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

SUPPLEMENTARY INFORMATION: On June 17, 1987, the presiding ALJ issued his final ID finding that is no violation of section 337 in the importation and sale of certain garment hangers. The original deadline for deciding whether to review the ALJ's final ID was August 3, 1987.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1377) and § 210.53(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.53(h)).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 23, 1987.

[FR Doc. 87–17224 Filed 7–28–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–252]

Denial of Motion for Reconsideration; Certain Heavy-Duty Mobile Scrap Shears

AGENCY: International Trade Commission.

ACTION: Denial of a motion (Motion No. 252–25–C) for reconsideration of the Commission's determination in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jack M. Simmons, III, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0493. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202–724–0002.

SUPPLEMENTARY INFORMATION: On May 19, 1987, complainant LaBounty Manufacturing, Inc. (LaBounty), moved, pursuant to Commission rule 211.57(a), 19 CFR 211.57(a), "to set aside in whole" the Commission's final action in this investigation. The Commission's final action was its determination of no violation of the section on the basis of there being no infrengement of the patent in controversy.

This motion alleges, in essence, that (1) respondents did not comply with a discovery order, as demonstrated by newly discovered evidence that goes to the merits of the case, requiring reconsideration, and (2) the newly discovered evidence demonstrates that certain statements made by respondents and their counsel contained material misrepresentations of fact, which were, by implication, relied upon by the complainant to its detriment during the investigation. The motion was opposed by respondnets Dudley Shearing Machine Manufacturing Co., Ltd., and Dudley Shearing (Charlotte), Inc., and by the Commission investigative attorney.

Because Commission rule 211.57, 19 CFR 211.57, which deals with the modification or dissolution of final Commission action, is applicable only to final affirmative determinations, the motion was denied. *Certain Vacuum Bottles*, Commission investigation No. 337–TA–108, Action and Order, issued May 17, 1983.

The Commission also determined not to institute a new investigation on its own motion. Whether considered under the rubric of "newly discovered evidence," analogous to Federal Rule of Civil Procedure (FRCP) 60(b)(2), or fraud on the Commission, analogous to FRCP

60(b)(3), LaBounty's factual showing is not sufficient to demonstrate that the newly discovered evidence is material to the Commission's determination of noninfringement. LaBounty has not explained how, in its view, the newly discovered evidence might lead to a new result in any issue under investigation. LaBounty is not precluded from filing a new complaint with the Commission.

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 4:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

By order of the Commission.

Issued: July 20, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–17225 Filed 7–28–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–603–10]

Industrial Forklift Trucks

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary investigation under section 603(a) of the Trade Act of 1974 (19 U.S.C. 2482(a)) and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission has instituted a preliminary investigation under section 603(a) of the Trade Act of 1974 for the purpose of gathering information relevant to the question of whether certain firms supporting a petition for relief filed under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) with respect to imports of certain industrial forklift trucks are "representative of an industry" within the meaning of section 201(a)(1) of the Trade Act.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 206, Subparts A and B (19 CFR Part 206), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202–523–0300), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Background.—On June 5, 1987, Yale Materials Handling Corporation filed a petition under section 201 of the Trade Act of 1974 seeking relief in the form of import restrictions with respect to imports of certain industrial forklift trucks. Several domestic producers of such trucks filed letters supporting Yale's petition, but several others indicated opposition, and others did not indicate either support or opposition to the petition. Those firms supporting the petition accounted for substantially less than 50 percent of domestic production of such industrial forklift trucks in 1986, and those firms in opposition to the petition accounted for a greater share of 1986 production than those firms supporting the petition.

In view of this information and certain other information furnished by the petitioner and other interested parties, the Commission, on July 1, 1987, rejected the petition as not providing a sufficient basis for determining that petitioner and supporting producers were "representative of an industry" within the meaning of section 201(a)(1) of the Trade Act of 1974. At the same time, the Commission determined that it would explore the feasibility of instituting a preliminary investigation under section 603(a) of the Trade Act for the purpose of gathering additional information relevant to the question of whether the firms supporting the petition are "representative of an industry."

Section 603(a) of the Trade Act authorizes the Commission "In order to expedite the performance of its functions . . . [to] conduct preliminary investigations . . . ." The Commission anticipates that it will complete this investigation by September 18, 1987. The Commission will announce at the conclusion of its investigation what additional action, if any, it plans to take on this matter.

Scope of the investigation—In this investigation relating to industrial forklift trucks, the Commission plans to gather additional information relating to domestic production, shipments, employment, producing facilities, domestic content, imports by domestic producers, and plans by domestic producers to source such trucks from non-U.S. sources. The Commission asks that interested parties in their submissions and testimony at the public hearing furnish any information relevant to these subjects and, in addition, address the issue of what standards the Commission should apply in determining what entity or entities are "representative of an industry" within the meaning of section 201(a)(1) of the Trade Act.

Participation in the investigation.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than ten (10) days after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on September 2, 1987, at the U.S. International Trade Commission Building, 701 E Street NW, Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 20, 1987. Parties will be contacted after that date regarding time allocations for the hearing. Written submissions must be submitted not later than the close of business on September 4, 1987. Confidential material should be filed in accordance with the procedures described below.

Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—As mentioned, parties to this investigation may file written submissions by September 4,

1987. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 4, 1987. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and results for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This preliminary investigation is being instituted pursuant to section 603(a) of the Trade Act of 1974 (19 U.S.C. 2482(a)) and § 201.7 of the Commission's rules of practice and procedure (19 CFR 201.7). This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 23, 1987.

[FR Doc. 87-17226 Filed 7-28-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-285 (Final)]

Industrial Phosphoric Acid From Belgium

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On July 7, 1987, the U.S. Department of Commerce published notice in the **Federal Register** of a negative final determination of subsidies in connection with the subject investigation. Accordingly, pursuant to § 207.20(b) of the Commission's Rules of Practice and Procedure (19 CFR 207.20(b)), the countervailing duty investigation concerning industrial phosphoric acid from Beligium (investigation No. 701-TA-285 (Final)) is terminated.

EFFECTIVE DATE: July 17, 1987.

FOR FURTHER INFORMATION CONTACT: Ilene Hersher (202-523-46167), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 21, 1987.

[FR Doc. 87-17227 Filed 7-28-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-261]

Commission Decision Not To Review Initial Determination Amending Complaint and Notice of Investigation; Certain Ink Jet Printers Employing Solid Ink

AGENCY: International Trade Comission.

ACTION: Nonreview of an initial determination amending the complaint and notice of investigation to add allegations of infringement a patent.

FOR FURTHER INFORMATION CONTACT: Charles H . Nalls, Esq., Office of General Counsel, U.S. International Trade Commission, tel. 202-523-1626.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53).

SUPPLEMENTARY INFORMATION: On May 19, 1987, complainants E/D Venture, Imaging Solutions, Inc., and Dataproducts Corporation filed a motion (Motion No. 261-20) to amend the complaint and notice of investigation to add an allegation of infringement of U.S. Letters Patent 4,667,206. Respondent Howtek, Inc opposes the motion. On June 23, 1987, the presiding administrative law judge (ALJ) issued an ID (Order No. 10) granting Motion No. 261-20 to amend the complaint and notice of investigation. No petitions for review were filed nor were any Government agency comments received.

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

Hearing-impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 21, 1987.

[FR Doc. 87-17228 Filed 7-28-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-263]

Commission Determination Not To Review Initial Determination Joining Respondent; Certain Office Filing Cabinets

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) joining a respondent to the investigation.

SUMMARY: Notice is hereby given that the Commission has determined not to review the presiding administrative law judge's (ALJ) ID amending the complaint and notice of investigation to join Compania Internacional De Muebles De Acero (CIMA) of Mexico as a respondent in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0375.

SUPPLEMENTARY INFORMATION: On May 26, 1987, complainant Supreme Equipment & Systems Corporation moved to amend the complaint and notice of investigation (Motion 263-11) to add CIMA as a respondent to the investigation. The ALJ issued an ID granting the motion on June 25, 1987. No petitions for review of the ID nor comments from other government agencies have been received.

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

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 21, 1987.

[FR Doc. 87-17229 Filed 7-28-87; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of Consent Order Pursuant to Clean Water Act; Empire Plating Co. Inc., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 8, 1987, a proposed Consent Order in *United States* v. *Empire Plating Co. Inc., et al.*, Civil Action No. C 85-1580 was lodged with the United States District Court for the Northern District of Ohio. The proposed Consent Order concerns discharge of pollutants from defendant's electroplating plant into the Northeast Ohio Regional Sewer District. The proposed Consent Order requires the defendant to install pollution control equipment to treat its effluent prior to discharge, to monitor and sample this effluent, and to pay a $75,000 civil penalty.

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 Order. 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. *Empire Plating Co. Inc., et al.*, D.J. Ref. 90-5-1-1-2261A.

The proposed Consent Order may be examined at the office of the United States Attorney, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44144 and at the Region V Office of Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Order 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 Order 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 $2.00 (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. 87-17217 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act; Post and Lumber Preserving Co. et al.

In accordance with Department policy, 28 CFR 50-7, notice is hereby given that on July 16, 1987, a proposed consent decree in *United States of America and the State of Florida* v. *Post and Lumber Preserving Company, Inc.*, Civil Action No. TCA 84-7334, was lodged with the United States District Court for the Northern District of Florida. The complaint was filed by the United States seeking the imposition of injunctive relief and civil penalties under the Resource Conservation and Recovery Act against Post and Lumber Preserving Company, Inc., at its wood-preserving facility in Quincy, Florida. The State of Florida's Complaint in intervention alleged that the company violated the Florida Resource Recovery and Management Act in the operation of its wood-preserving facility.

The consent decree provides that Post and Lumber will close its surface impoundment and a container storage area pursuant to plans approved by the Environmental Protection Agency and the State of Florida, provide post-closure care and establish a trust fund for post-closure care, conduct groundwater monitoring, and pay a civil penalty of $5,000.

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, Land and Natural Resources Division, Department of Justice, Washington, DC 20430, and should refer to *United States and the State of Florida* v. *Post and Lumber Preserving Company, Inc.*, D.J. Ref. 90-7-1-270.

The proposed consent decree may be examined at the office of the United States Attorney, 227 North Bronough Street, Tallahasee, Florida 32301 and at the Region IV office of the Environmental Protection Agency, 345 Courtland Street N.E., Atlanta, Georgia 30365. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. Copies 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.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-17157 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Office of the Attorney General

Certification; Tenth Circuit; Colorado, Utah, Wyoming, Montana, and Idaho

The Attorney General pursuant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, hereby certifies to the United States Court of Appeals for the Tenth Circuit on this date that, in the region specified in paragraph 581(a)(19) of title 28, United States Code, composed of the federal judicial districts for the states of Colorado, Utah, and Wyoming, and those portions of Yellowstone National Park in the states of Montana and Idaho, the amendments made by section 113 and subtitle A of title II of the Act and section 1930(a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapters 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States Code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapeter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the the district of Colorado is

responsible, pursuant to section 301(a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Dated: July 22, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-17151 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

U.S. Trustee System, Judicial Second Circuit

The Attorney General pursuant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, hereby certifies to the United States Court of Appeals for the Second Circuit on this date that, in the region specified in paragraph 581(a)(2) of title 28, United States Code, composed of the federal judicial districts for the states of Connecticut, New York, and Vermont, the amendments made by section 113 and subtitle A of title II of the Act and section 1930(a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapter 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States Code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the Southern District of New York is responsible, pursuant to section 301(a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Date: July 21, 1987.

Edwin Meese, III,

Attorney General.

[FR Doc. 87-17216 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Certification; Third Circuit; Delaware, New Jersey, and Pennsylvania

The Attorney General pursuant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, hereby certifies to the United States Court of Appeals for the Third Circuit on this date that, in the region specified in paragraph 581(a)(3) of title 28, United States Code, composed of the federal judicial districts for the states of Delaware, New Jersey, and Pennsylvania, the amendments made by section 113 and subtitle A of title II of the Act and section 1930(a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapter 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States Code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the districts of Delaware and New Jersey is responsible, pursuant to section 301(a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Dated: July 22, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-17152 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Certification; Eleventh Circuit; Florida, Georgia, Puerto Rico, and Virgin Islands

The Attorney General purusant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, hereby certifies to the United States Court of Appeals for the Eleventh Circuit on this date that, in the region specified in paragraph 581(a)(21) of title 28, United States Code, composed of the federal judicial districts for the states of Florida and Georgia, the Commonwealth of Puerto Rico, and the Virgin Islands, the amendment made by section 113 and subtitle A of title II of the Act and section 1930(a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapter 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States Code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee to be appointed for that region is responsible, purusant to section 301(a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Dated: July 22, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-17153 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Certification; Seventh Circuit; Illinois and Wisconsin

The Attorney General purusant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, hereby certifies to the United States Court of Appeals for the Seventh Circuit on this date that, in the region specified in paragraph 581 (a)(11) of title 28, United States Code, Composed of the federal judicial districts for the Northern District of Illinois and the State of Wisconsin, the amendment made by section 113 and subtitle A of title II of the Act and section 1930 (a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapter 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The

amendments will also apply in cases commenced prior to November 26, 1986, account one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapeter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the Northern District of Illinois is responsible, pursuant to section 301 (a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Date: July 22, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-17154 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Certification; Tenth Circuit; Kansas, New Mexico, and Oklahoma

The Attorney General pursuant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, hereby certifies to the United States Court of Appeals for the Tenth Circuit on this date that, in the region specified in paragraph 581(a)(20) of title 28, United States Code, Composed of the federal judicial districts for the states of Kansas, New Mexico, and Oklahoma, the amendments made by section 113 and subtitle A of title II of the Act and section 1930(a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapter 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, account one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the the district of Colorado is responsible, purusant to section 301 (a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Dated: July 22, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-17155 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Certification; Fourth Circuit; Maryland, South Carolina, Virginia, West Virginia, and the District of Columbia

The Attorney General pursuant to section 303 of the Bankruptcy Judges, United States Trustees, and Family Farmer Act of 1986, Pub. L. No. 99-554, hereby certifies to the United States Court of Appeals for the Fourth Circuit on this date that, in the region specified in paragraph 581 (a)(4) of title 28, United States Code, composed of the federal judicial districts for the states of Maryland, South Carolina, Virginia, and West Virginia, and the District of Columbia, the amendments made by section 113 and subtitle A of title II of the Act and section 1930 (a)(6) of title 28, United States Code, will apply 30 days after this date as to all cases commenced under chapter 7, 11, 12, or 13 of title 11, United States Code, on or after November 26, 1986. The amendments will also apply in cases commenced prior to November 26, 1986, one year after this certification, unless a final report and account of the administration of the estate required under section 704 of title 11, United States Code, has been filed, or a plan has been confirmed under section 1129, 1225, or 1325 of title 11.

The amendments cited above implement the United States Trustee system in the region and also impose quarterly fees in chapter 11 cases commenced on or after November 26, 1986. The implementation of the United States Trustee system and the imposition of quarterly fees in those chapter 11 cases commenced prior to November 26, 1986, in which a plan has not been confirmed, will become effective one year after the date of this certification.

The United States Trustee presently serving for the District of Columbia and the Eastern District of Virginia is responsible, pursuant to section 301 (a) of the Act, for implementing the amendments made by the Act in the region hereby certified.

Dated: July 22, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-17156 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Controlled Substances; Proposed Aggregate Production Quotas for 1988

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed aggregate production quotas for 1988.

SUMMARY: This notice proposes initial 1988 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act.

DATE: Comments or objections should be received on or before August 28, 1987.

ADDRESS: Send comments or objections to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attn: DEA Federal Register Representative.

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

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code 826) requires that the Attorney General Establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

The quotas are to provide adequate supplies of each substance for: (1) The estimated medical, scientific, research, and industrial needs of the United States; (2) lawful export requirements; and (3) the establishment and maintenance of reserve stocks.

In determining the below listed proposed 1988 aggregate production quotas, the Administrator considered the following factors: (1) Total actual 1986 and estimated 1987 and 1988 net disposals of each substance by all manufacturers; (2) estimates of

inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; (3) estimates of change in legitimate medical needs; and (4) projected demand as indicated by procurement quota applications which were filed pursuant to Section 1303.12 of Title 21 of the Code of Federal Regulations.

Pursuant to § 1303.23(c) of Title 21 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration will in early 1988 adjust individual manufacturing quotas allocated for the year based upon 1987 year-end inventory and actual 1987 disposition data supplied by quota applicants for each basic class of Schedule I or II controlled substance.

Based upon consideration of the above factors, the Administrator of the Drug Enforcement Administration hereby proposes that aggregate production quotas for 1988 for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

BASIC CLASS

	Proposed 1988 quotas
Schedule I:	
2,5-Dimethoxyamphetamine	13,500,000
Lysergic acid diethylamide	6
3,4-Methylenedioxyamphetamine	5
3,4-Methylenedioxymethamphetamine	10
Tetrahydrocannabinols	20,000
Psilocyn	2
Psilocybin	2
Normorphine	3
Schedule II:	
Alfentanil	3,500
Amobarbital	0
Amphetamine	371,000
Cocaine	700,000
Codeine (for sale)	58,277,000
Codeine (for conversion)	4,349,000
Desoxyephedrine	1,418,000
1,400,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 18,000 grams for the production of methamphetamine.	
Dextropropoxyphene	74,075,000
Dihydrocodeine	582,000
Diphenoxylate	1,099,000
Ecgonine (for conversion)	650,000
Fentanyl	6,100
Hydrocodone	2,360,000
Hydromorphone	198,000
Levorphanol	16,800
Meperidine	10,719,000
Methadone	1,591,000
Methadone intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)	1,999,000
Methamphetamine (for conversion)	1,920,000
Methylphenidate	2,317,000
Mixed alkaloids of opium	7,000
Morphine (for sale)	3,148,000
Morphine (for conversion)	62,645,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	1,527,000
Oxycodone (for sale)	2,122,000
Oxycodone (for conversion)	5,200
Oxymorphone	2,500
Pentobarbital	11,737,000
Phencyclidine	31
Phenmetrazine	0
Phenylacetone (for conversion)	1,020,000
1-Piperidinocyclohexanecarbonitrile (for conversion)	20

BASIC CLASS—Continued

	Proposed 1988 quotas
Secobarbital	1,573,000
Sufentanil	450
Thebaine	5,116,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on one of the above-mentioned substances without filing comments or objections regarding the others. Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attn: DEA Federal Register Representative, and must be received by August 28, 1987. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall cause such hearing to be convened pursuant to the provisions of Title 21 of the Code of Federal Regulations, § 1303.31(a).

Pursuant to section (3)(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning of and intent of the Regulatory Flexibility Act, 5 U.S. Code, 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

John C. Lawn,

Administrator, Drug Enforcement Administration.

Dated: July 20, 1987.

[FR Doc. 87-17202 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application, Sigma Chemical Co.

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 19, 1987, Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63178, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Pethidine (meperidine) (9230)	II

A maximum of 25 grams for each of the above listed substances will be imported annually and will be utilized in researcher or analytical studies.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than August 28, 1987.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: July 23, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-17112 Filed 7-28-87; 8:45 am]

BILLING CODE 4410-09-M

LIBRARY OF CONGRESS

Copyright Office

Cable Compulsory License; Policy Decision Concerning Federal Communications Commission Action Amending List of Major Television Markets

[Docket No. RM 85-2]

AGENCY: Copyright Office, Library of Congress.

ACTION: Policy decision.

SUMMARY: The Copyright Office has determined that television signals entitled to mandatory carriage status under the FCC's former must carry rules pursuant to an FCC market redesignation order (revising the list of major television markets in 47 CFR 76.51) are to be treated as local signals for purposes of the cable compulsory license of section 111 of the Copyright Act.

EFFECTIVE DATE: July 29, 1987.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, telephone: (202) 287-8380.

SUPPLEMENTARY INFORMATION:

1. Background

Section 111 of the Copyright Act of 1976, title 17 of the United States Code, establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. Under this system, a large cable system. *i.e.*, a system having gross receipts above a designated level (presently $292,000 per semiannual accounting period), is generally required to calculate its royalty payments, in part, on the basis of the number of signals of primary transmitters it carries beyond the transmitters' local service areas, i.e., "distant signals." In the case of a television braodcast station, the "local service area of a primary transmitter" is defined in section 111(f) of the 1976 Act as comprising "the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effort on April 15, 1976. . ."

Section 76.51 of the regulations of the Federal Communications Commission ("FCC") in effect on April 15, 1976 contains a list of the major television markets and their designated communities. This list was first published by the FCC in its 1972 cable rulemaking proceeding. *See Cable Television Report and Order*, 36 FCC 2d 143, 220 (1972). In adopting this list, the FCC was concerned that the table of major television markets remain stable in order to allow plans and investment to go forward with confidence and to avoid any disruptive impact on the viewing public. *Id.* at 173.

Under the FCC rules in effect on April 15, 1976, a cable system operator would look to this major market list as one of the criteria for determining which television broadcast stations are subject to mandatory carriage. For example, under former section 76.61(a)(4) of the FCC rules, where a cable system serves a community that is located in whole or in part within a major television market, the cable system may, or upon appropriate request of the broadcast station must, carry the signals of "[t]elevision broadcast stations licensed to other designated communities of the same television market. . ." 47 76.61(a)(4)(1976). Further, before repeal by the FCC of its distant signal carriage rules (*see Report and Order in Docket Nos. 20988 and 21284*, 79 FCC 2d 663 (1980)), the existence of a cable system within a major television market would subject it to a specific market quota of distant signals. 47 CFR 76.61(b)(1979).

In view of the close relationship between specific rules of the FCC and the cable compulsory licensing system in the copyright law, Congress authorized the Copyright Royalty Tribunal to adjust the royalty rates for cable systems where certain changes are made in the FCC rules. Section 801(b)(2)(B) of the 1976 Act provides that the Tribunal may, upon receipt of a petition filed under section 804, adjust the cable royalty rates "[i]n the event that the rules and regulations of the [FCC] are amended . . . to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of such signals . . . " 17 U.S.C. 801(b)(2)(B)(1986). In accordance with this provision, the Tribunal acted in 1982 to adjust the cable compulsory license rates following repeal of the FCC's distant signal carriage and syndicated exclusivity rules. *See Adjustment of the Royalty Rates for Cable Systems*, 47 FR S2146-S2159 (November 19, 1982). Under these adjusted rates, in certain instances, cable systems must compute 3.75 per centum of their gross receipts for each distant signal equivalent ("DSE") or any fraction thereof. *See* 37 CFR 306.2(c)(1984). Pursuant to section 801(b)(2)(B) of the 1976 Act, this rate adjustment does not apply to any DSE represented by: (i) Carriage of any signal permitted under the rules and regulations of the FCC in effect on April 15, 1976 or the carriage of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the FCC, as such rules and regulations were in effect on April 15, 1976.

On January 17, 1985, the FCC amended its list of major television markets in section 76.51 of its rules to include Melbourne and Cocoa, Florida in the Orlando-Daytona Beach, Florida hyphenated market. *See* 50 FR 2565-2570 (January 17, 1985); *Report and Order in MM Docket No. 84-11 RM 4557*, 102 FCC2d 1062 (released Jan. 11, 1985; adopted Nov. 21, 1984). This final rule raised questions concerning the interplay between the FCC "must-carry" rules that were in effect at that time for cable systems in major television markets, the calculation of royalties under the cable compulsory licensing system in section 111 of the Copyright Act of 1976, and the role of the Copyright Royalty Tribunal in adjusting royalty rates for cable systems following certain FCC rule changes.

In deciding to amend its list of major television markets in former § 76.61, the FCC noted the copyright concerns of Micro Cable Communications Corp. and Group W, who argued in comments to the rulemaking that the list amendment would cause certain cable systems to be in the undesirable position of being required to carry certain signals and pay copyright royalties for their carriage at the 3.75 percent and syndicated exclusively surcharge rates. Systems might be in this position if the Copyright Act definition of local signals, which incorporates by reference the FCC rules of *1976*, also requires reference to the major television market list in effect on April 15, 1976.

The FCC concluded that such would not be the case, and that after its rule change, "the Melbourne and Cocoa stations are considered local for purposes of the Copyright Act." 50 FR 2570. The FCC reasoned that "[a]lthough additional stations will henceforth be able to insist on mandatory signal carriage, that is a consequence of the market situation, not of a change in the Commission's rules in effect on April 15,

1976." *Id.* The FCC analogized the major television market list amendment to a determination by the Commission that a particular station is significantly viewed under § 76.54 of its rules.

A representative of Group W Cable, Inc. formally requested, by letter dated February 19, 1985, that the Copyright Office open a public proceeding in which the copyright issues of the FCC's final rule amending the list of major television markets in § 76.71 of its rules could be addressed. It was stressed that the issues involved in the Florida case concerned the FCC, cable operators and copyright owners. It was also noted that, in addition to the Melbourne-Cocoa, Florida decision, the FCC made comparable changes in a California major market,[1] and that more than 400 additional petitions to change the major television market list were pending at the FCC.

The Copyright Office agreed that the copyright consequences of the FCC's decision to redefine two of the markets in the FCC's list of major television markets at 47 CFR 76.51 should be addressed in a public proceeding, and initiated a Notice of Inquiry on that topic. *See* 50 FR 14725–14726 (April 15, 1985). Specifically, the Copyright Office invited comment on the following questions and related issues:

1(a). What is the impact on the copyright law of a change by the FCC in the major television market list, which has the effect for FCC purposes of making a formerly "distant" signal a "local" must-carry signal? (b) How should the 1982 cable rate adjustment (both the 3.75% rate and the syndicated exclusivity surcharge) be applied in these changed circumstances? (c) Is the FCC correct in its assumption that § 76.61 of its rules is unchanged by the amendment to the list of major television markets and that, although a cable system may be required under § 76.61(a)(4) to carry additional stations after the change in § 76.51(b)(55), it is a "consequence of the market situation, not of a change in the Commission's Rules in effect in April 15, 1976?"

2. Should a distinction be drawn between the copyright consequences of any amendments to the list of major television markets in § 76.51 and any changes in the stations deemed significantly viewed under § 76.54 of the FCC rules after April 15, 1976?

3(a). If the amendment made in § 76.51(b)(55) of the FCC rules to include Melbourne and Cocoa, Florida in the Orlando-Daytona Beach market would have expanded the former signal carriage quota of a cable system in Melbourne or Cocoa, to permit the system to carry an additional independent television broadcast station beyond the local service area of that station as defined in section 111(f), is the Copyright Royalty Tribunal, upon request of a petition filed under section 804 of Title 17 U.S.C., authorized to institute a proceeding to determine whether an adjustment in the royalty rates under section 111 should be made to accommodate this amendment? (b) Alternatively, since the FCC *eliminated* the distant signal rules in 1981, has the Tribunal already addressed the impact of any FCC changes in the "distant signal" rules, including changes in the major television market list, pursuant to 17 U.S.C. 801(b)(2)(B), in its 1982 cable rate adjustment.

4. What action, if any should the Copyright Office take to clarify the issues raised by FCC charges in the major television market list?

2. Summary of the Comment Record

The comment period was held open until May 15, 1985, and twelve comments were received from the following commentators: HBI Acquisition Corp. ("HBI"), the National Cable Television Association, Inc. ("NCTA"), Jones Intercable, Inc. ("Jones Intercable"), Southern Broadcasting Corporation ("Southern"), Micro Cable Communications Corp. ("Micro-Cable"), Centel Cable Television ("Centel"), Group W Cable, Inc. ("Group W"), the Federal Communications Commission ("FCC"), the Motion Picture Association of America ("MPAA"), the National Association of Broadcasters ("NAB"), the Association of Independent Television Stations, Inc. ("INTV"), and Tele-Communications, Inc. ("TCI"). These commentors unanimously agree that in assessing the copyright issues involved in this proceeding, the Copyright Office should adopt the FCC's determination that its final rule including Melbourne and Cocoa, Florida in the Orlando-Daytona Beach hypenated market does not constitute a change in the FCC's rules in effect on April 15, 1976, and should treat signals in the newly defined market that are local for communications purposes as local for purposes of computing copyright royalties as well.

a. Responses to Question 1a.

In reaching the above conclusion, commentators presented several different arguments which generally respond to Question 1(a) posed in the Copyright Office's Notice of Inquiry.

(i) Legislative History

Several [2] commentators argue that the legislative history to the Copyright Act of 1976, in its explanation of the definition of "local service area" in section 111(f), indicates that the FCC major market list found at 47 CFR 76.51 is not frozen to its April 15, 1976 status for purposes of determining the local service area of a particular cable system and the copyright royalties owed by the system. These commentators refer to the House Report that states:

> Under FCC rules and regulations this so-called "must carry" area is defined based on the market size and position of cable systems in 47 CFR 76.57, 76.59, 76.61, and 76.63.

H.R. Rep. No. 1496, 94th Cong. 2d Sess. 99 (September 3, 1976) (hereinafter cited as "House Report"). The commentators argue that only the specific rules listed in this quotation were intended to be frozen to their April 15, 1976 status for purposes of determining what are distant signals for computing copyright royalty fees. "Local" signals for copyright purposes would thus include signals required to be carried by cable systems situated in "major television markets," however that term is defined in current FCC regulations. The FCC's change in the major market list is merely a procedural change, and should not have a substantive effect on cable systems' copyright liabilities.

Commentators [3] also argue that the FCC's addition of Melbourne and Cocoa to the Orlando-Daytona Beach hyphenated market is not the type of rule change which Congress would consider to be a decrease or increase in a local service area which would materially affect the royalty fee payments provided in the legislation.[4] Therefore, they contend, the Orlando-Daytona Beach market should not be frozen to its status as of April 15, 1976 insofar as the FCC's recent economic redefinition of the market it concerned.

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[1] The FCC amended the list of major television markets in section 76.51(6)(72) of its rules by adding Visalia, Hanford, and Clovis, California to the existing Fresno, California market. 50 FR 7915–7918 (Feb. 27, 1985); *Report and Order in MM Docket No. 84–439 RM–4602; RM 4823; RM–4843*, FCC–85–59, slip. op. (released Feb. 14, 1985; adopted Jan. 30, 1985).

[2] NCTA, Centel, and INTV.

[3] NCTA, Centel, INTV, Jones Intercable, and Group W.

[4] The House Report states:

> The definition [of "local service area"] is limited . . . to the FCC rules in effect on April 15, 1976. The purpose of this limitation is to insure that any subsequent rule amendments by the FCC that either increase or decrase the size of the local service area for its purposes do not change the definition for copyright purposes. The Committee believes that any such change for copyright purposes, which would materially affect the royalty fee payments provided in the legislation, should only be made by an amendment to the statute.
>
> House Report at 99.

(ii) Copyright Policy

Several commentators [5] also argue that the FCC's conclusion that must-carry signals in redesignated markets are local for both FCC and copyright purposes is consistent with the underlying basis of the Copyright Act's distinction between "local" and "distant" signals. Congress distinguished local from distant signals for purposes of copyright royalty calculation because it determined that cable carriage of broadcast television programming within station's local market has no impact on the ability of the copyright owner to exploit the retransmitted works in a distant market,[6] and therefore poses no threat to copyright owners. The FCC's market redesignation order reflects the FCC's determination that the communities involved are all part of a single televison market for economic purposes. As such, the FCC's distinction between distant and local signals tracks the Copyright Act's distinction, and is consistent with the copyright law. This argument, commentators contend, is bolstered by the fact that the standard used by the FCC today to determine what constitutes a single market is the same as it was when the FCC created the top 100 market list.[7]

(iii) Communications Policy

Micro Cable refers to FCC policy as further support for the argument that a change to the list of designated major market communities can be viewed as merely a procedural event with no substantive importance and therefore no effect on copyright treatment of cable royalties. Micro-Cable argues that the FCC has treated hyphenated markets in both major markets and smaller markets similarly; as such, Micro-Cable contends that a redesignation of a major market by the FCC should be treated in the same manner as a redesignation of a smaller market. Micro-Cable points out that in a smaller market the FCC gives must-carry status to television stations licensed to other communities which are "generally considered to be part of the same smaller television market," as decided on the facts of each case and determined by industry practices as reflected by national audience rating services. Micro-Cable analogizes that, because as no rule change is involved when a new station becomes part of an existing smaller-market, likewise, the substantive rule has not changed in the case of a major market redesignation and the FCC's decision merely recognizes that certain communities qualify as part of a hyphenated market.

(iv) Fairness

A common theme running through the various arguments raised in the comments was the issue of fairness. Though they are without legal or other support on this count, commentators are adamant that it would be unjust for the Copyright Office to interpret the Copyright Act so as to require cable systems to pay royalties for signals that are must-carry signals under the then existing FCC regulations.

Micro-Cable argues that it may be assumed that Congress was aware that new television stations could go on the air in the vicinity of cable systems and would be local, and further, that "Congress never intended a situation to arise where one Federal Agency requires conduct by a regulated party and another Federal Agency penalizes that party for the conduct." Group W Cable, Inc. argues that, as a policy matter, "references in the Copyright Act to the FCC's must carry rules were not intended to work bizarre copyright results whenever the FCC alters rules which affect mandatory carriage."

(v) Public Interest

INTV contends that if the Copyright Office were to reject the FCC's interpretation that FCC amendments to the list of market designations at 47 CFR 76.51 do not constitute changes to the FCC's must-carry rules, the result of affected cable systems having to pay increased copyright royalties for carriage of must-carry signals would be "inimical to the public interst in having access to free, advertiser and public-supported local television programming via cable without having to pay unnecessary additional charges."

b. Response to Question 1(b)

Commentators agree that signals which are newly designated as local signals for FCC purposes pursuant to the FCC's major market list change should not be subject to the 3.75% rate or the syndicated exclusivity surcharge. The prevailing argument for the conclusion is a reiteration of the commentators' basic position. They claim that because the signals in the newly designated portion of the market are subject to mandatory carriage they should be considered local signals, and local signals are not subject to the 3.75 fee or the syndicated exclusivity surcharge. They argue alternatively that even if the signals would be considered distant signals for copyright purposes (i.e. because there was a rule change effected by the FCC's Order and the Copyright Act freezes the definition of local signals to the 1976 market list in § 76.51 of the FCC rules), the fact that the signals are subject to mandatory carriage is enough to give the signals the status of "permitted" signals under section 801 of the Copyright Act, so that they would not be subject to the 1982 cable rate adjustment.

Jones Intercable reasons that it is reasonable to assume advertisers and copyright owners will generally consider the new communities in the major market as part of the hyphenated market and that, consequently, copyright holders will be compensated for the carriage of these signals into these markets by royalty payments made pursuant to the compulsory license mechanism in general without application of the 1982 rate adjustment.

Group W contends that because there is no controlling language in the Copyright Act, the applicability of the 1982 cable rate adjustment to the signals newly added by the FCC to the major market list depends upon the treatment which the FCC would have afforded the signals if its distant signal and syndicated exclusivity rules were in effect today. Group W concludes that a system once located outside all major markets and later included within a major market would have been treated by the FCC as any other system operating within a major market. Therefore, pursuant to the FCC's former rules, cable operators should be able to carry two additional distant signals into newly designated portions of a major market at the non-3.75% rate. Group W also concludes that signals already carried on cable systems in the newly expanded market would have been exempted from the syndicated exclusivity rules on a grandfathered basis, and therefore such signals are exempt from the syndicated exclusivity surcharge.

c. Response to Question 1(c)

The commentators all answered this question in the affirmative, for reasons generally discussed in response to Question 1(a). Several commentators emphasized that the FCC's change in its § 76.51 list is not the type of substantive change referred to in section 111(f) or 801(b) of the Copyright Act, and therefore is not a change that can trigger a CRT rate adjustment proceeding. Jones Intercable contrasts the change in the major market list with the circumstances of the CRT's 1982 cable rate adjustment, characterizing the latter as being a response to an extreme change in the "overall plan under which the

[5] NCTA, Group W, NAB, INTV, and TCI.

[6] *See* House Report at 90.

[7] *See Report and Order in MM Docket No. 84-111*, 50 FR 2565, para. 17 (Jan. 17 1985).

Commission classified local and distant signals," and therefore an appropriate situation to trigger CRT rate adjustment.

The FCC comments that the Commission adopted the § 76.51 list based on prime-time household rankings. It explains that the purpose of adopting that list was to delineate various television markets by size so as to tailor mandatory carriage rules according to market size and that it is necessary to revise its market designation where appropriate to reflect contemporary market circumstances. The FCC reiterates that, in revising the list, it did not effect a change in the basic mandatory carriage regime under § 76.61.

d. Responses to Question 2

All commentators agree that there is no legal distinction between the copyright consequences of an amendment to the major market list and a change in the list of stations deemed significantly viewed under the FCC's former rules. NCTA argues that both situations "merely involve the application of existing rules to new facts rather than a change in the rules themselves." Jones Intercable argues that the policy considerations underlying both situations are the same because in each, the status of signals being carried on a cable system changes by virtue of changed factual circumstances. The only difference is that stations which become "significantly viewed" attain that status by virtue of changed viewing habits within a TV market, and stations which become part of a major market achieve that status by virtue of a new commonality of interest coupled with geographic proximity with a major market.

TCI addresses the fact that the modification of a station's significantly viewed status results not from a revision of, or amendment to, a Commission rule, but from the May 1972 revisions to Appendix B of the FCC's *Cable Television Report and Order*, 36 FCC2d 1 (1972), *recon. granted in part* 36 FCC2d 236 (1972). TCI argues that since section 76.54 of the FCC rules incorporates by reference the list of significantly viewed stations, "a change in that list is clearly akin to and no more than a list of § 76.51." In a footnote TCI suggests that it is likely that the list of significantly viewed stations was put into an appendix rather than in the rules themselves merely because the list is 42 pages long. TCI concludes that it would be reasonable to treat a change in the FCC's major market list similarly to a change in the significantly viewed status of a particular station for copyright royalty purposes.

Commentators noted other situations that might be deemed analogous to the FCC's amendment of the major market list in which the FCC's carriage rules are not changed. Several commentators[8] likened a major market redesignation to a situation in which the licensing by the FCC of a new television station causes changes in a cable system's market designation and must-carry obligations. Jones Intercable likens it to a situation in which a station's grade B contour is expanded or contracted. None of these situations is considered a rule change for copyright purposes.

e. Responses to Questions 3(a) and 3(b)

The five commentators that replied to this question [9] all expressed the belief that the CRT is not authorized to entertain a petition for adjustment of the royalty rates applicable to signals that newly become must-carry signals in a particular hyphenated market pursuant to the FCC's redesignation of its major television market list. The commentators generally argue that it is outside the CRT's authority under section 804(b)(2)(B) to adjust the rates in this instance because the FCC's market redesignation is not an amendment to the rules and regulations of the FCC to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitter of such signals, as is required by section 801(b)(2)(B) to trigger the CRT's rate adjustment authority.

TCI and Jones Intercable add that even assuming that the FCC's market redesignation order is a rule change as contemplated by section 801(b)(2)(B), the CRT has discretion to entertain a petition for rate adjustment, and the Tribunal would be acting in accordance with its powers and the mandate of Congress in declining to undertake any study for the purposes of adjustment based on "so minor a modification of the Commission's rules," or in finding that no rate adjustment was warranted because of the policy underlying the FCC's amendment to its major market listing.

The NCTA contends that since the FCC completely eliminated its distant signal carriage restrictions as of June 24, 1981, the redesignation of a market has no effect whatever on the number of distant signals that a cable system may carry under the FCC's rules. Since the CRT considered the impact of the FCC's decision to repeal all of its distant signals rules in November 1982, there is no basis for further adjustments under section 801(b)(2)(B). Jones Intercable disagrees with this argument and notes that if the FCC had generally amended its rules to increase the 35 mile zone so that signals formerly deemed distant were to henceforth be considered local, the CRT would have the right to determine whether the royalty rate should be adjusted.

f. Responses to Question 4

The commentators suggest two general courses of action for the Copyright Office to take in response to the Notice of Inquiry here at issue. The predominantly-held view is that the Copyright Office should adopt as policy the view that signals entitled to mandatory carriage as a result of an FCC market redesignation order are to be treated as local signals for cable compulsory license purposes, and that the Copyright Office should accept any new market status for cable systems that is established by the FCC. This position would be based upon the premise that there is no rule change effected when the FCC amends its major television market list in § 76.51 of the FCC regulations. INTV more specifically suggests that the Copyright Office clarify that under the Copyright Act, local signals include signals which are required by the FCC to be carried by cable systems situated in "major television markets," however that term is defined in existing FCC regulations.

The second suggested alternative is that the Copyright Office adopt a neutral position on the status of signals affected by market redesignation orders, and accept without question Statements of Account which designate signals entitled to mandatory carriage as local regardless of their status prior to the market redesignation.

3. Recent Developments in Must-Carry Regulation

July 19, 1985, the U.S. Court of Appeals for the D.C. Circuit issued a decision in *Quincy Cable TV, Inc. v. FCC*, 768 F2d 1434 (D.C. Cir. July 19, 1985), *cert. den. sub nom. National Association of Broadcasters v. Quincy Cable TV, Inc.*, 106 S Ct 2889 (June 9, 1986), holding that in their then existing form the FCC's mandatory carriage rules contravened the First Amendment. In a footnote of the opinion, the court states that by invalidating the must carry rules on First Amendment grounds, the court does not suggest that they may not continue to serve the function of being a reference point for determining where a local signal ends and a distant signal

[8] NCTA, Jones Intercable, Micro-Cable, and TCI.
[9] NCTA, Jones, Centel, Group W, and TCI.

begins for purposes of computing royalty fees under section 111 of the Copyright Act. *Id.* at 40, n. 42.

In accordance with the *Quincy* decision, the FCC suspended enforcement of the must carry rules, effective July 19, 1985. "Suspended Enforcement of Certain Sections of 47 CFR Part 76," 50 FR 38003 (September 10, 1985). In response to petitioning members of the public, the Commission adopted a combined Notice of Inquiry and Notice of Proposed Rulemaking on November 14, 1985, to consider the matter of amending the mandatory signal carriage rules for cable systems in accordance with the *Quincy* court's decision. 50 FR 48232. Pursuant to that rulemaking proceeding, on March 26, 1987 the FCC adopted a new regulatory program for cable systems that includes interim must-carry rules that will expire at the end of a five year transition period. *Memorandum Opinion and Order in MM Docket No. 85–349*, FCC 87–105, 62 Rad Reg 2d (P&F) 1251 (released May 1, 1987). The new rules went into effect on June 10, 1987.

The *Quincy* decision and its regulatory aftermath at the FCC have had a great impact on the practical significance of the issue raised in this Inquiry. Since July 19, 1985, and the nonenforcement of the former must carry rules, the FCC's major market list has only had limited significance under the FCC's cable regulatory scheme, and has been relevant only with respect to FCC rules that do not relate to a determination of local service areas under the copyright law. Under the must carry rules adopted on March 26, 1986, a television station's market status is immaterial in the determination of mandatory carriage. Thus, it would appear that the FCC will no longer make redesignations of the list, because the list does not affect cable systems' must-carry obligations. Accordingly, whether a change in the major television market is a rule change for purpose of determining copyright royalties will probably affect only the determination of local signal status for cable systems located in the Orlando-Daytona-Melbourne market and the Fresno-Visalia-Hanford-Clovis market.

4. Policy Decision

Having reviewed the Copyright Act of 1976 and its legislative history concerning the definition of local service area in section 111(f) of the Act, as well as the views presented during the comment period of the Inquiry and the current developments in cable communications law, the Copyright Office formally adopts the view that signals entitled to mandatory carriage status under the FCC's former must carry rules as a result of an FCC market redesignation order are to be treated as local signals for purposes of the cable compulsory license. This position is necessarily based upon the interpretations that (1) Congress did not intend § 76.51 to be frozen to its April 15, 1976 status for purposes of determining cable systems' local service area and copyright royalty fees; and (2) when the FCC amends its major television market list in 47 CFR 76.51, there has been no substantive rule change effected so as to impact calculation of cable copyright royalties.

The Copyright Office adopts the above interpretation based on the legislative history of the Copyright Act, as summarized in part 2.a.(1) of this Notice. The commentators representing the cable industry, the broadcast industry and the copyright owners were unanimous, moreover, in urging the Copyright Office to adopt this view. Finally, the changes in the FCC's must-carry rules following the *Quincy* decision have essentially mooted the subject of this Notice. When this inquiry began the Copyright Office had concerns about enlargement of the class of local signals under the Copyright Act due to the approximately 400 petitions for market redesignation at that time pending at the FCC. However, it would appear that this policy concern is now eliminated because under the FCC's amended must-carry rules, the major market list is not determinative of must-carry status, and it is unlikely that a large number of market redesignations will be effected by the FCC in the future.

Dated: July 16, 1987.

Ralph Oman,

Register of Copyrights.

Approved.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87–17123, Filed 7–28–87; 8:45 am]

BILLING CODE 1410–07–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–16055, License No. 34–19089–01]

Order Modifying License, Effective Immediately, and Demand for Information; Advanced Medical Systems, Inc.

I.

Advanced Medical Systems, Inc. (AMS or licensee) One Factory Row, Geneva, OH, is the holder of Byproduct Material License No. 34–19089–01 issued by the Nuclear Regulatory Commission (the NRC) pursuant to 10 CFR Part 30. The license authorizes possession and use of 150,000 curies of cobalt-60 as solid metal, 150,000 curies of cobalt-60 in sealed sources, and 40,000 curies of cesium-137 in the manufacture, installation and servicing of radiography and teletherapy devices. The license further authorizes the installation, servicing, maintenance, and dismantling of radiography and teletherapy units. The license, originally issued on November 2, 1979, was renewed on June 25, 1986, with an expiration date of October 31, 1986. A timely renewal application has been submitted.

II.

Licensee's teletherapy source fabrication facility is located at 1020 London Road in Cleveland, Ohio ("the London Road facility" or "facility"). Based on surveys conducted in October 1985 and August 1986, contamination and radiation levels at the London Road facility have been found to be excessive and increasing.

On October 21–24, 1985, at the request of the NRC staff, representatives of the Radiological Site Assessment Program of Oak Ridge Associated Universities (ORAU) performed an evaluation of the fire protection and operational radiation safety problems at the London Road facility. In addition, ORAU performed confirmatory measurements and onsite/offsite sampling to determine the radiological status of the site and the immediate environment.

On February 20, 1986, NRC Region III representatives met with representatives of AMS at the London Road facility. The meeting included a discussion of the findings and recommendations in ORAU's evaluation report and a discussion of immediate actions that should be taken to protect the public health and safety. Among the concerns expressed by NRC representatives at the meeting were excessive contamination throughout the facility, excessive accumulation of radioactive material, a high potential for serious personnel exposure if operations continue as in the past, and decontamination costs estimated at approximately $1 million with no firm commitment from AMS that funding will be available.

On March 7, 1986, the NRC staff requested that AMS submit plans to clean up its radioactive waste, decontaminate its hot cell area, and decontaminate its solid and liquid waste storage areas in the basement of the London Road facility. On April 16, 1986 AMS submitted a letter to the NRC on

the status of its cleanup or radioactive waste and a general statement about plans for obtaining a contract for decontamination. The NRC staff informed AMS by letter dated May 6, 1986 that its April 16 response was inadequate. On May 29, 1986 AMS submitted a letter to the NRC indicating the status of its radioactive waste cleanup and providing further general statements about plans to contract for decontamination. Attached to the letter was a generic decontamination plan with no specific schedules for cleanup.

Due to AMS' failure to submit an adequate decontamination plan for the London Road facility as requested in March 1986 by the NRC staff, the NRC on June 25, 1986 issued Amendment No. 8 to AMS' license requiring AMS to submit, within 60 days, a decontamination plan for the facility (License Condition No. 15.A) and a copy of a contract for decontamination by a qualified health physics organization.

On July 24, 1986 AMS submitted to the NRC a contract with Rad Services, Inc. to perform decontamination of the London Road facility. The contract contained a schedule for providing the decontamination plan.

On September 5, 1986, Amendment No. 9 was issued extending the time under the AMS license for submittal of the decontamination plan to the NRC. On September 10, 1986, AMS submitted to the NRC a decontamination plan date September 8, 1986 (Plan), with schedules for decontamination of the London Road facility.

On October 23, 1986 the NRC issued Amendment No. 10 to the AMS License. Pursuant to that license amendment and Conditions 16 and 19.E of AMS' current license, the initiation of decontamination activities at the London Road facility was required, in accordance with the Plan, by December 22, 1986. Conditions 15.A, 19.C, and 20 in Amendment 10 incorporate AMS' commitments to redesign, reconstruct, and upgrade its facility.

By letter dated December 23, 1986, a day after the decontamination implementation deadline, AMS requested that Condition 16 "be placed in abeyance to be reconsidered following reconciliation of the [NRC's] suspension Order of October 10, 1986." The October 10th Order suspended AMS' authority under its license to install, service, maintain, or dismantle radiography or teletherapy units. The NRC responded, by letter dated February 11, 1987, that it does not consider the Order to be a basis for modification of the license and that any relaxation of the time frames of AMS' decontamination effort must be submitted as an application for a license amendment.

By letter dated March 20, 1987, AMS requested that Condition 16 be revised to provide that AMS shall initiate decontamination of the London Road facility, in accordance with its Plan, by March 1, 1988. AMS cited lack of available profits frm its business, due to the suspension of AMS' service license from October 16, 1986, until February 2, 1987, as the basis for its request. AMS stated, "We anticipate that profits, necessary to resolve the accumulated deficit since October 10, 1986 and to provide sufficient profits to finance continuation of the decontamination program, will be available, at the earliest, by March 1, 1988." Region III staff discussed the March 20, 1987, proposal with AMS staff during a site visit on April 2, 1987. Subsequent to that visit, AMS supplemented the March 20, 1987, request with a letter dated April 10, 1987, proposing an alternative schedule for implementation of the decontamination program, which would still defer initiation of decontamination of the most contaminated areas until March 1, 1988, contingent upon profitability of the company. To date, AMS has not made substantial progress on any of the decontamination activities pursuant to the Plan required under its license.

III.

ORAU's site evaluation of the AMS London Road facility in October 1985 and surveys performed by RAD Services, Inc, an AMS contractor, in August 1986 indicate that a general degradation of radiological conditions has continued, resulting in a significant potential for unnecessary radiation exposures for workers at this facility as evidenced by the following:

1. In the basement, general area radiation levels have remained very high (500–10,000 mR/hr); contamination levels have increased significantly (from 40,000 dpm/100 cm^2 to 1,500,000 dpm/100 cm^2). The liquid waste room general area is on the order of 300 R/hr with some areas as high as 1000 R/hr.

2. On the first floor, general area radiation levels in the Isotope Shop Area (ISA) showed substantial increases from 1985 to 1986 (up to 400% increase). The ISA showed levels of 1.5—54.0 mR/hr in 1985, and 2.0—180.0 mR/hr in 1986 (the *average* radiation level in the ISA, a relatively high traffic area, was 15 mR/hr). Contamination levels have increased from a maximum of 90,000 dpm/100 cm^2 in 1985 to 500,000 dmp/100 cm^2 in 1986. Radiation levels in the hot cell have been measured at 80 R/hr during routine maintenance procedures and irradiated pellet deliveries. The hot cell entry area (decontamination room) is extremely contaminated due to recent source manufacturing operations and accumulation of solid radioactive waste. A licensee survey performed on April 2, 1987 during an NRC site visit revealed gross floor contamination in excess of 1,000,000 dpm/100 cm^2.

3. The area of concern on the second floor is the cell machinery/filter room, which houses the exhaust ventilation system, cell-crane equipment, and back-up power supplies. The exposure rate outside the restricted area exhaust ventilation room exceeds 80 mR/h in some areas due to contamination on the HEPA filter. During the 1985 ORAU audit, the exposure rate at the hot cell filter was 3.0 R/h. These exposure rates are excessive, and severaly limit the time accessibility to this room for routine maintenance (filter exchange, generator and battery checks, etc.). The filter room and surrounding areas are locked and controlled as restricted areas.

IV.

Despite repeated efforts by the NRC to get AMS to take steps to initiate meaningful decontamination efforts at the facility and modify the facility to minimize contamination, AMS has failed to take such steps and there is no assurance that AMS will initiate meaningful decontamination effort by March 1988. Notwithstanding the issuance of license amendments requiring initiation of decontamination, redesign, reconstruction, and upgrading of the facility, to date efforts have been minimal and contamination and radiation levels remain excessive and are increasing.

On the basis of the above and after NRC review of licensee activities onsite, it is apparent that since December 22, 1986, AMS has been operating and continues to operate in noncompliance with Conditions 15.A, 16, 19.C, 19.E and 20 of its license in that it has failed to initiate the required activities at the London Road facility. Consequently, the NRC lacks reasonable assurance that decontamination, redesign, reconstruction and upgrading of the licensee's London Road facility will be initiated and completed in an orderly and timely fashion to assure that the health and safety of the public, including licensee's employees, will be protected. Accordingly, the public health, safety and interest require that those efforts commence forthwith. For these reasons and pursuant to 10 CFR 2.201(c), no prior notice is required.

V.

In view of the foregoing, and pursuant to sections 81, 161b, 161i, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 30, it is hereby ordered, effective immediately, that License No. 34–19089–01 is modified as follows:

A. By August 31, 1987, AMS shall commence decontamination of the London Road facility in accordance with License Condition Nos. 16 and 19.E of its license.

B. Decontamination of the London Road facility shall be accomplished in accordance with the schedule described in sections 4.0.1 through 4.0.10 of the Plan submitted with AMS' letter dated September 10, 1986, with completion dates keyed to a program initiation date of August 31, 1987.

C. By August 31, 1987, AMS shall commence the redesign, reconstruction, and upgrading of the London Road facility and the other activities required by License Condition Nos. 15.A, 19.C and 20, specifically the plan described in the attachment to AMS' letter dated May 29, 1986.

D. The activities required in C above shall be accomplished in accordance with the schedule described in the attachment to AMS' letter dated May 29, 1986, with completion dates keyed to a program initiation date of August 31, 1987.

VI

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any answer to this Order or request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d). Upon the failure of the licensee to answer or request a hearing within the specified time, this Order shall be final without further proceedings. An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

VII

While alleged lack of profits does not excuse noncompliance with the conditions of an NRC license, lack of financial ability to comply with NRC requirements may require further NRC action. Therefore, further information is needed to determine whether the Commission can have reasonable assurance that in the future the licensee will conduct its activities in accordance with the Commission's requirements and expeditiously conduct required decontamination, redesign, reconstruction, and upgrading of its facilities and programs.

Accordingly, to determine whether the license should be modified, suspended or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements, the licensee is required to submit to the Regional Administrator, Region III, the following information in writing and under oath or affirmation, pursuant to sections 161c and 182 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 30:

A. Provide within 30 Days of receipt of this Order:

1. Copies of AMS' annual financial statements, including but not limited to, balance sheets showing all assets and liabilities and profit and loss statements, for the previous three years.

2. Copies of AMS' quarterly financial statements, including but not limited to, balance sheets showing all assets and liabilities and profit and loss statements, for the previous four quarters.

3. Copies of AMS' annual federal tax returns for the previous three years.

4. A listing of the names of all owners of record of the stock of AMS owning at least 10% of the stock, indicating each owner's address and the number of shares owned.

5. A listing of any planned or proejcted AMS fabrication of teletherapy or radiography sources for domestic or foreign use within the next 6 months, including the number and activity of the sources to be produced and anticipated date of production.

B. Provide a report every 30 days beginning October 15, 1987 addressing:

1. The progress that has been made toward carrying out the Plan during the past calendar month and the radiation dose received by each worker. In the event that a milestone date set forth in the licensee's May 29, 1986 or September 10, 1986 letters, as modified by this Order, is not met during the period covered by the report, the report shall indicate: (1) The date by which the licensee expects to accomplish the activity, (2) the reason for the licensee's failure to meet the milestone date, and (3) the impact that the failure to meet the milestone date will have on the Plan and schedule.

2. The actions under the Plan that the licensee expects to accomplish within the next 30 days.

3. The financial resources available to the licensee during the period covered by the report, including but not limited to revenue, costs and expenses, net losses or profits, and sums expended during the period on decontamination of the London Road facility.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 23d day of July 1987.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FR Doc. 87–17220 Filed 7–28–87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 11003919]

Solicitation of Public Comments on License Applications Seeking Authorization to Import Uranium From South Africa; Braunkohle Transport, USA

On June 11, 1987, published at 52 FR 23091 (June 17, 1987), the Nuclear Regulatory Commission issued an Order inviting the parties to the Commission proceeding as well as members of the public to comment on issues raised by eight license applications. These applications, if granted, would authorize the import of uranium of South African-origin into the United States. The initial round of public comments were to be submitted to the Commission by July 13, 1987. Reply comments were to be submitted by July 28, 1987.

At the request of the Atlas Corporation the period for filing reply comments has been extended to August 4, 1987.

Issued at Washington, DC, this 23d day of July 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87–17250 Filed 7–28–87; 8:45 am]

BILLING CODE 7590-01-M

Bi-weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all notices of amendments issued, or proposed to be issued from July 6, 1987 through July 17, 1987. The last bi-weekly notice was published on July 15, 1987 (52 FR 26580).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 28, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S.

Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket No. STN 50-528, Palo Verde Nuclear Generating Station (PVNGS), Unit 1, Maricopa County, Arizona

Date of amendment request: May 28, 1987

Description of amendment request: The proposed amendment consists of the following proposed changes to the Technical Specifications (Appendix A to Facility Operating License No. NPF-41 for PVNGS, Unit 1).

Technical Specification 3.3.3.2 addresses the limiting condition for operation for the incore detectors used to measure the spatial neutron flux distribution of the reactor core. The proposed changes would modify part b. of this specification to require the incore detection system to have a minimum of six tilt estimates, with at least one at each of three levels, in lieu of a minimum of two quadrant symmetric incore detector locations per core quadrant. In order to assure that this proposed change does not permit operation with a large number of failures, part a. of the specification would be changed to also require the incore detection system to have 75% of all detectors, with at least one detector in each quadrant at each level.

Technical Specifications 3/4.9.1 and 3/4.10.1 provide the required boron concentration conditions during refueling, and the shutdown margin requirements for measuring control element assembly worth, respectively. Each of the specifications provides an action statement which requires a minimum boration flowrate of 40 gpm of a solution containing 4000 ppm boron whenever the limiting conditions for operation are not met. The proposed amendment would change this flowrate to a minimum of 26 gpm. The change is being proposed to be consistent with the values used in the previously reviewed design of the plant and with the values currently included in Specifications 3.1.1.1, 3.1.1.2 and 4.1.2.2.

All of the above proposed changes would make those portions of the Technical Specifications consistent with the Technical Specifications previously reviewed and approved by the staff for PVNGS, Units 2 and 3 (Appendix A to Facility Operating License Nos. NPF-51 and NPF-65, respectively).

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of the proposed changes, as they relate to these standards is presented below.

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change to Specification 3.3.3.2 does not alter the design of the facility. The change is being proposed so that operation of the incore detection system is consistent with the design of the system, as well as with the data base and uncertainties presented in the report, "Evaluation of Uncertainty in the Nuclear Power Peaking Measured By the Self-Powered, Fixed In-core Detector System" (CENPD-153-P, Rev. 1-P-A), which presents the evaluation of the system.

The proposed changes to Specifications 3/4.9.1 and 3/4.10.1 do not alter the current design or operation of the facility. The only change being proposed is to make the charging flowrate consistent with the values used in the previously reviewed design of the plant and with the values currently included in Specifications 3.1.1.1, 3.1.1.2 and 4.1.2.2.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.

None of the proposed changes affect the design of the plant or how the facility is operated. The changes are being proposed to be consistent with plant design and with related specifications. Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3 - Involve a Significant Reduction in a Margin of Safety.

None of the proposed changes involve a significant reduction in a margin of safety since they only involve changes to correct errors and to provide consistency within the Technical Specifications and with plant design.

Accordingly, the Commission has proposed to determine that the above changes do not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Arizona Public Service Company, et al., Docket Nos. STN 50-528 and STN 50-529, Palo Verde Nuclear Generating Station (PVNGS), Units 1 and 2, Maricopa County, Arizona

Date of amendment request: June 24, 1987

Description of amendment request: The proposed amendments consist of a proposed change to the Technical Specifications (Appendix A to Facility Operating License Nos. NPF-41 and

NPF-51 for PVNGS, Units 1 and 2, respectively).

Technical Specification 3.7.1.3 defines the limiting condition for operation for the condensate storage tank (CST), which provides the primary source of demineralized water for the auxiliary feedwater system. The proposed change would revise the required minimum level in the CST from 23 feet to an indicated level of 25 feet, and would make that portion of the Technical Specifications consistent with the Technical Specifications previously reviewed and approved by the staff for PVNGS, Unit 3 (Appendix A to Facility Operating License No. NPF-65).

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of the proposed change, as it relates to these standards is presented below.

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change would revise the CST level in Specification 3.7.1.3 to ensure that an inventory of 300,000 gallons is available in the CST. The 300,000 gallon inventory is required, in the event of a total loss of offsite power, to ensure that enough water is available after event initiation to maintain the plant in hot standby conditions for four hours and then accomplish a natural circulation cooldown to conditions which allow the initiation of the shutdown cooling system. The current CST level of 23 feet does not ensure an inventory of 300,000 gallons under all circumstances. No other previously evaluated accident is affected by this proposed change. Therefore, the proposed change will not involve a significant increase in the probability or the consequences of any accident previously evaluated.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.

The proposed change would not make any changes to plant design or operation, or change the operation of any plant equipment. The only change would be the level in the CST to ensure a sufficient inventory of water. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3 - Involve a Significant Reduction in a Margin of Safety.

As stated previously, the proposed change would not change plant or equipment design, or plant operation. The change would only correct an error in Specification 3.7.1.3. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Accordingly, the Commission has proposed to determine that the above change does not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: April 30, 1987.

Description of amendment request: The proposed change to the Technical Specifications would remove the requirement for "immediate and daily thereafter" surveillances of redundant equipment when Emergency Core Cooling System (ECCS) components are inoperable.

Basis for proposed no significant hazards consideration determination: In its application, the licensee provided an analysis concerning the issue of no significant hazards consideration. Based on this analysis, the licensee determined that the proposed amendment did not represent a significant hazard consideration. The reasons for this determination were:

(1) it did not involve a significant increase in the probability or consequences of an accident since removal of the immediate and daily surveillance requirements would be beneficial in that, the increased surveillance frequency resulted in the premature wear of active system components;

(2) because the proposed amendment keeps, during normal operations, the redundant systems in a state identical to that assumed in the Pilgrim accident analysis, it will not create the possibility of a new or different kind of accident; and

(3) the amendment will not involve a significant reduction in the margin of safety since the revised requirements provide assurance of equipment operability.

The staff has reviewed the evaluation provided by the licensee and agrees with the determinations. Hence, the staff has made a proposed determination that this application for amendment involves no significant hazard consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: V. Nerses.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: May 20, 1987.

Description of amendment request: The proposed amendment to the Technical Specificiations: (1) adds a timer to the automatic depressurization system (ADS) surveillance criteria in Table 3.2.B; (2) adds a test to a manual inhibit switch; (3) changes the Bases to reflect the modification to the plant and Technical Specfications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a proposed amendment involves a significant hazard consideration (48 FR 14870). An example of an amendment that is not likely to involve a significant hazards consideration is "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

Because the proposed amendment would add the requirements to survey the ADS timer, and test the manual inhibit switch, the staff considers these additional limitations. Therefore, the changes are similar to example (ii).

Based on the above, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: V. Nerses.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: May 22, 1987.

Description of amendment request: The proposed amendment would revise the Trip Function for the Startup Transformer Loss of Voltage devices. The changes would clarify existing Technical Specification functions and settings. They include: (1) deleting the reference to 3094 volts with 18 seconds time delay from Table 3.2.B; (2) removing a footnote which refers to the Trip Function for the Startup Transformer Loss of Voltage device; and (3) deleting the references to individual relay numbers. The proposed changes are administrative in nature in that they are being made to eliminate requirements that are not necessary because of plant modifications and to reduce the possibility of confusion. No changes are being made that will alter the safety-related functions or setpoints of the subject devices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are not likely to involve significant hazards consideration. One example of an amendment which would not involve a significant hazards consideration is: "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

The proposed amendment will eliminate requirements that are not necessary because of plant modifications and that will reduce confusion. Also, they are administrative in nature and, therefore, similar to example (i). Hence, the staff has determined that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: V. Nerses.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 1, 1987.

Description of amendment request: The proposed amendment request would revise the Technical Specifications to: (1) change the reactor vessel low-pressure operability requirements for high-pressure coolant injection (HPCI) and reactor core isolation cooling (RCIC) from 104 psig to 150 psig; (2) clarify the requirements for when HPCI and RCIC will be operable; and (3) revise the Bases for the core spray and low pressure coolant injection subsystems to clarify assumptions regarding the core spray system that were made in the accident analysis.

Basis for proposed no significant hazards consideration determination: As part of its amendment request the licensee provided a determination that the proposed changes involved no significant hazards. The basis for this determination was:

(1) The amendment would not increase the probability or consequences of an accident which was previously analyzed since the safety analyses performed for Pilgrim by General Electric take no credit for the HPCI or RCIC below 150 psig.

(2) The possibility of a new or different kind of accident would not be created because (a) the Pilgrim safety analyses do not take credit for HPCI and RCIC operation below 150 psig; (b) isolation of HPCI and RCIC on low steamline pressure will not be affected; and (c) the proposed amendment does not involve a plant design change; and

(3) There is not a significant reduction in a margin of safety because operability of HPCI and RCIC below 150 psig is not required by the Pilgrim safety design bases.

The staff has reviewed the determination made by the licensee and based on this review concurs with the findings that no significant hazards consideration exists. Therefore, the staff has made a proposed determination that this application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: V. Nerses.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 2, 1987.

Description of amendment request: The proposed amendment would revise the Technical Specifications to:

(1) revise and reformat Table 3.2.C into two new Tables 3.2.C-1 and 3.2.C-2, with associated notes to improve clarity and reduce the possibility of confusion. Additionally, operability requirements for rod block actuation instrumentation are added and operability requirements for APRM Upscale and Inoperative trip functions and revised to make the Technical Specifications more consistent with the FSAR;

(2) revise Technical Specification 3.2.C.1 to include references to new Technical Specification Tables 3.2.C-1 and 3.2.C-2;

(3) move the specification which permits the minimum operable channels for the rod block monitor trip function to be reduced by one for maintenance and/or testing is from Technical Specification 3.2.C.2 to new Table 3.2.C-1;

(4) add Footnote 4 to Table 3.2.C-1 to ensure that the special SRM operability requirements during core alterations contained in Technical Specification 3.10 are referenced;

(5) revise Technical Specification Table 4.2.C to include the instrument test and calibration requirements for the additional trip functions added to Tables 3.2.C-1 and 3.2.C-2;

(6) revise the notes for Tables 4.2.A through 4.2.G on Technical Specification Page 67 to remove a statement from Note 3 that inadvertently conflicted with the calibration frequencies specified on Table 4.2.C; and

(7) revise Technical Specification Bases 3.2 to correct the Technical Specification reference for the APRM and IRM downscale trip setpoints.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a significant hazard consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards consideration. Two of these examples are: "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature," and "(ii) A change that constitutes an additional limitation, restriction, or

control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

With the exception of item (5), all of the changes are administrative in nature and are similar to example (i). Item (5) places an additional requirement in the Technical Specifications and is therefore similar to example (ii). Hence, the staff has determined that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: V. Nerses.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: August 28, 1985, as supplemented May 15, 1987.

Description of amendment request: The original amendment request, dated August 28, 1985, was initially noticed in the **Federal Register** on September 25, 1985 (50 FR 38911). The proposed amendment would change the Technical Specifications (TS) for Brunswick Steam Electric Plant, Units 1 and 2, relative to the operability requirements for the rod block monitor (RBM) in TS Section 3.1.4.3 and in Tables 3.3.4-1 and 4.3.4-1. The original amendment request proposed to set the limit for operability of both RBM channels in operational condition 1 when thermal power is greater than or equal to 35% of rated thermal power. The current TS require operability when thermal power is greater than the preset level of the rod worth minimizer (RWM) and rod sequence control system (RSCS). After discussions with the NRC staff, the licensee, by letter dated May 15, 1987, submitted a revision to the original amendment request of August 28, 1985. The proposed revised amendment would lower the RBM operability threshold to 30% of rated thermal power.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined the following:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the change is merely a clarification of the existing requirement. Currently, the applicability requirement for the RBM is that it be operable when thermal power is greater than the preset power level of the RWM and RSCS. This power level is normally preset between 25 and 30 percent. The proposed change permanently fixes the power level above which the RBM must be operable.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated for the same reasons discussed in (1) above.

(3) The proposed amendment does not involve a significant reduction in a margin of safety. No actual plant operating set points will be changed as a result of the proposed TS. Currently, the level at which the RBM is required to be operable can be increased by merely increasing the preset power level of the RWM and RSCS. Therefore, the change further restricts the applicability of the RBM by specifying a value above which it must be operable. The proposed change is consistent with the values set forth in the GE BWR/4 Standard Technical Specifications.

Based on the above reasoning, the licensee has determined that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Based on this review, the staff, therefore, proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: Thomas A Baxter, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Elinor G. Adensam

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: June 1, 1987

Description of amendment request: The proposed license amendment will revise Technical Specifications (TS) 3.19 and 4.13 pertaining to snubbers by replacing them in their entirety with technical specifications which are largely consistent with the NRC model Standard Technical Specifications (STS) and which are more consistent with current industry guidelines such as NRC Generic Letter 84-13.

Basis for proposed no significant hazards consideration determination: In accordance with 10 CFR 50.92, the licensee has reviewed the proposed changes and has concluded that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. There are no physical changes to the plant as a result of the proposed changes; therefore, previously analyzed accidents are not affected.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The proposed amendment changes only address surveillance and operability requirements. As such, there are no hardware modifications associated with these changes and consequently no new failure modes associated with these changes.

3. Involve a significant reduction in a margin of safety. The more restrictive requirement for surveillance and operability of the snubbers will reduce the possibility of a loss of safety system with snubbers.

The staff has reviewed the licensee's determination that the proposed license amendment involves no significant hazards consideration and agrees with the licensee's analyses. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: May 29, 1987, as supplemented July 6, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications to permit an extension of the maximum surveillance interval limits for various systems and components to allow certain refueling surveillance tests to be performed during the 1987 refueling outage. The licensee has requested that the Technical Specifications be modified on a one-time basis to extend the 3.25 total time interval limit, over three consecutive surveillance intervals, to allow testing to be performed during the scheduled 1987 refueling/maintenance outage rather than requiring a special plant shutdown solely to perform these tests. The earliest surveillance test would have to be performed as early as September 1987. The 1987 refueling outage is scheduled to begin November 1987.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following analysis:

... consistent with the Commission's criteria in 10 CFR 50.92, we have determined that the proposed change does not involve a significant hazards consideration because the operation of Indian Point Unit No. 2 (IP-2) in accordance with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change would extend the 3.25 surveillance interval to allow certain tests to be performed during 1987 (cycle 7/8) refueling outage. The earliest date for performing an affected surveillance test is September 5, 1987. Our safety assessment determination is based on the next refueling and maintenance outage to start on approximately November 1, 1987 Therefore, the maximum extension for any single surveillance item is for a duration of less than two (2) months in 58.5 months. This represents an extension of just 3% above the 3.25 surveillance interval limit. Even with the extension, all of the surveillance tests for the equipment in Table 1 would be performed within the single allowable Technical Specification interval between two tests, i.e. 18 months plus 25%. As a result of our review of previous test results we have concluded that there is no reason to expect significant safety-related component failures during the extension period. Therefore, there is no significant reduction in the overall reliability of the IP-2 reactor protection system and engineered safety features. Thus, the ability of the component to perform its intended safety function during the extension period will be maintained to at least an equivalent level as currently provided by the Technical Specification for a maximum single surveillance interval. Since the proposed surveillance interval extension does not involve any physical change in plant equipment and would not affect the capability of the current instrumentation and components of IP-2 to perform their intended function, there would be no significant effect on the potential initiating mechanisms or the consequences of an accident. Therefore, the proposed change would not significantly increase the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change only extends for certain tests the maximum 3.25 surveillance interval limit. The extension is of a short duration and within the single permissible Technical Specification interval limit. In order to more fully evaluate the present test interval extension request, the results of previous surveillance tests were reviewed for the purpose of determining if there was any reason to expect significant safety-related component failures during the proposed extension period. The evaluation considered the potential impact that prior tests of the components would have on the equipment and its required performance assumed in the FSAR transient and accident analysis. The result of that evaluation indicates that there is no reason to expect any increase in affected safety-related component failures during the extension period and that due to the redundancy and diversity of the IP-2 safety systems, there would be no significant reduction in the overall reliability of the IP-2 protection systems associated with the requested surveillance test interval. Thus, the level of equipment performance would be at least equivalent to that currently provided by the Technical Specifications for a maximum surveillance interval between any two tests.

The proposed change would not impact any component, system or structures not described in FSAR and would not create a new or increased potential for interacting with components, systems or structure which are described in the FSAR. Thus, since the change would introduce no physical modification and has been determined to have no deleterious effect on system reliability, operation and safety, it could not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety. The safety significance of extending the 3.25 surveillance limit is associated with extending a 58.5 month interval by a maximum of 2 months and the confidence that the affected component or system will continue to perform their intended function during the period where the tests would be deferred. All of the surveillance items listed in Table 1 will be due prior to the next refueling outage solely because of the 3.25 maximum combined surveillance limit. The tests listed will all be performed within the single permissible Technical Specification surveillance interval limit of 18 months + 25%. In addition, the results of previous surveillance tests of the components which are the subject of the requests were evaluated to determine if there was any reason to expect a significant increase in safety related failures during the extended surveillance intervals. The evaluation considered the potential impact that prior tests would have on the licensing basis of IP-2 and concluded that due to the redundancy and diversity of the reactor protection system and engineered safety features actuation system, there would be no significant reduction in the overall reliability of IP-2 protection system associated with the extension of the surveillance interval and thus, no impact on the licensing basis of IP-2. For all the affected tests, assurance that the quality of the component and its ability to perform will be maintained during the extension period is at least equivalent to that level currently provided by the Technical Specification for a maximum surveillance interval (i.e., 18 months + 25%).

Furthermore, the maximum extension for any single surveillance item listed in Table 1 is for a period of less than two

(2) months in 58.5 months (3.25 times the nominal 18 month surveillance interval). This represents an extension of 3% with regard to the 3.25 surveillance interval limit. Thus, the requested extension is not significant with regard to the surveillance interval limit, and compares favorably with the alternatives of a plant shutdown or placing the plant in an operational risk, either of which could result in a reactor trip and plant transient. Thus, it is concluded that the operation of IP-2 with the proposed change would not involve a significant reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra, Acting Director

Duke Power Company, et al., Docket No. 50-414, Catawba Nuclear Station, Unit 2, York County, South Carolina

Date of amendment request: June 19, 1987

Description of amendment request: The proposed amendment would revise License Condition 2.C.(8)(a) of Catawba Unit 2 Facility Operating License, NPF-52, to allow an extension of time for the resolution of the accumulator tank instrumentation issue. The extension of time would be for one complete cycle of operation. The modified License Condition 2.C(8)(a) would then read "Prior to startup following the second refueling outage, Duke Power Company shall provide qualified accumulator discharge instrumentation." The above issue is related to Generic Letter 82-33, Supplement 1 to NUREG-0737, regarding Requirements for Emergency Response Capabilities. It was also discussed in Section 7.5.2 of Supplement 5 to the Catawba Safety Evaluation Report (NUREG-0954) and is currently under additional staff review because of its generic implications.

The primary function of the accumulator pressure or level instrumentation is to monitor the pre-accident status of the accumulators to assure that the passive safety system is in a ready state to serve its safety function. The licensee stated that the accumulator tank level or pressure are not referenced in any emergency procedure covering design basis events which may cause a harsh environment. No operator actions in these procedures are based on accumulator indications. Therefore, the licensee concluded that extension of the date for upgrading the accumulator pressure or level instrumentation until startup following the second refueling outage does not involve any adverse safety considerations.

A two operating cycle extension for Catawba Unit 1 was approved by amendment 15, issued on October 6, 1986, to Facility Operating License NPF-35. The requested one cycle extension for Catawba Unit 2 would put both Units on approximately the same schedule for resolution of this issue and would allow the NRC staff additional time to complete its generic review.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed extension of time needed to upgrade the accumulator discharge level or pressure would not affect the capability of the current instrumentation, as it exists at the facility, to provide pre-accident monitoring of the status of the cold-leg accumulators and as such has no effect on the cause mechanism or the consequences of an accident.

Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed extension would not affect any mechanism that causes accidents and would not change the operation of the facility.

Finally, it would not (3) involve a significant reduction in a margin of safety because the current instrumentation, as it exists at the facility, is fully qualified for its intended function of pre-accident monitoring of the cold-leg accumulators.

Accordingly, the Commission has determined that the above change in volves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: B. J. Youngblood

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: August 22, 1986 and supplemented by letter dated April 16, 1987

Description of amendment request: The hydrogen recombiners were modified during the fifth refueling outage. When testing the recombiners, the licensee determined that the required Technical Specification flow through the recombiners could not be obtained with the containment at normal operating vacuum. The resultant investigation determined that the weight loaded 2-inch swing check valves inside containment on both the recombiner suction and discharge lines offered too high a resistance to flow for the new blower.

In order to support recombiner operation, a plant modification was required. The modification was performed under the provisions of 10 CFR 50.59. The in-containment check valves on the suction lines have been removed and new check valves have been installed downstream of the two outside containment isolation valves and upstream of the containment vacuum pumps.

New ball valves have been installed on the recombiner discharge piping to serve as new containment isolation valves. These valves have been installed as close to the existing outside containment isolation valves as possible and still permit leak testability. The inside containment isolation valves (check valves) have had their internals removed. Their containment isolation function has been transferred to the new isolation valves.

The proposed amendment would revise the containment isolation valves listed in Table 3.6-1 to reflect the modification of the valve configuration for the hydrogen recombiner discharge piping.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously

evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The modification to the hydrogen recombiner system has been completed. The modification was performed to permit the hydrogen recombiners to continue to perform their function. The licensee stated that the new design satisfies 10 CFR 50, Appendix A, GDC 54 and GDC 56. Therefore, since the new design performs the same containment isolation function as the current design, the new design will not affect the probability of occurrence or the consequences of an accident previously evaluated.

The new valve configuration will perform the same function as the previous design. Additionally, during each refueling, the penetration piping through to the containment isolation valves would be pressure tested as part of the Type C testing program. The piping between the containment wall and the isolation valves is designed to withstand a pressure of 150 psig and has been tested to 65 psig, while the calculated peak LOCA pressure is 38.5 psig. Thus, there is sufficient margin between design pressure and expected accident pressure. Therefore, the new valve configuration does not create the possibility of a new or different kind of accident from any accident previously analyzed.

There has been no change in design acceptance criteria in terms of containment isolation and performance of the hydrogen recombiner system. Therefore, there is no reduction of safety margin involved.

In conclusion, the staff proposes to determine the requested amendment as involving no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: October 29, 1986, supplemented by letter dated June 2, 1987

Description of amendment request: This is a renotice of a proposed amendment published on December 17, 1986 (51 FR 45199). That notice is incorporated by reference.

The supplement dated June 2, 1987 added proposed requirements regarding actions to be taken if a pressurizer code safety valve discharges liquid water from a water solid pressurizer due to an overpressure event. The plant would be required to be shut down after such an event and the affected valve be inspected for potential damage. This action statement reflects the commitment specified in the staff's report on Beaver Valley Unit 1 safety/relief valves, dated November 10, 1986.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of these examples of actions involving no significant hazards considerations is example (ii), which is "a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications." The requested amendment matches this example and the staff, therefore, proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: July 1, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications to provide clarification and correction regarding control room habitability operability as follows:

(1) A footnote would be added to Section 3.7.7.1 to permit the emergency air bottles, which serve the Unit 1-Unit 2 shared control room, be isolated for up to 8 hours for performance of instrumentation and control systems testing. The same footnote is in Unit 2's Technical Specifications; its omission in the Unit 1 Technical Specifications is an administrative error. Without this clarifying footnote, Unit 1 will likely be required to shutdown per specification 3.0.3 whenever the air bottle instrumentation and control systems are being tested by Unit 2 personnel. Such unplanned shutdown is not the intent of the subject specification.

(2) Sections 4.7.7.1.1, 4.7.7.1.2 and 4.7.7.2 - the footnote referring to Unit 2 entering Mode 4 is no longer applicable since the event already took place. Deletion of the footnote is an editorial change.

(3) Section 4.7.7.1.2 - The limit of pressure drop for the combined HEPA filters and charcoal absorber banks would be corrected to comply with the manufacturer's recommendations.

(4) Section 4.7.7.2 - The footnote applying to a one-time air bottle discharge test would be deleted since the test was done. This is an editorial change.

(5) Section 3/4.9.15 - The heading would be changed to "Refueling Operations." This is an editorial change.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of these examples of actions involving no significant hazards considerations is example (i), which is "a purely administrative change to technical specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature." The requested changes all match this example and the staff, therefore, proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia

Date of amendment request: December 7, 1983, May 4, 1984, December 18, 1985, April 4, 1986, and January 5, 1987, supplementing a submittal of September 27, 1982.

Description of amendment request: These submittals provide additional information and data in support of changes to the Technical Specifications (TS) proposed by the September 27, 1982, submittal that was noticed in the **Federal Register** on November 23, 1983 (48 FR 52812). The January 5, 1987

submittal provides a commitment to provide plant procedures that require periodic building settlement measurements and that provide settlement limits and actions to be taken if these limits are reached.

Basis for proposed no significant hazards consideration determination: These submittals do not change the September 27, 1982 request which was previously noticed (48 FR 52812) as stated above. In that notice, it was stated that the Commission has made a proposed determination that the application for amendment to the TS involves no significant hazards consideration. Since the supplemental submittals do not change the September 27, 1982 request for amendment, they do not affect the previous determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: B.J. Youngblood

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 18, 1987

Description of amendment request: The proposed amendment describes organizational changes of the non-plant divisions of GPU Nuclear Corporation. The amendment would be reflected as changes to the corporate organization chart and relevant text in the Technical Specifications, and consists of replacing pages 6-3, 6-9, and Figure 6-1 with revised information.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee stated that the proposed changes do not involve a significant hazards consideration because:

The proposed change is similar to Example (i) of the "Amendments not Likely to Involve Significant Hazards Consideration" from the **Federal Register** Vol. 48, No. 67 at 14870 on April 6, 1983.

This change is an administrative change in the corporate organization. As such, this TSCR does not involve significant hazards consideration as stated below.

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The Corporate organization was never determined to be an initiator of any accident previously evaluated in the SAR. Even so, the probability of occurrence or the consequences for any previously evaluated accident are not modified by this change as the functions and responsibilities of affected groups remain essentially unchanged.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The reorganization does not in itself modify or change an operating parameter for any safety related component. Therefore, this activity does not increase the probability of occurrence or consequence of an equipment malfunction.

This activity modifies in part the Corporate organization by grouping the Nuclear Safety Assessment, Licensing and Long Range Planning functions into one Division. By this arrangement, the organization can provide an independent focus on the issue of safety, and the prioritication of plant modifications. Furthermore, the reorganization does not change the technical resources previously established to perform the quality assurance, radiological & environmental control, training and security functions.

(3) Involve a significant reduction in a margin of safety.

This change does not reduce the margin of safety which was defined in the SAR. The reorganization was a managerial change to increase the awareness of nuclear safety within the organization by the realignment of functional responsibilities. The functions and responsibilities of the functional groups affected by the reorganization remain as described in the Licensing Basis Documents.

The staff concurs with the licensee's assessment and proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for licensee: Earnest L. Blake, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: September 12, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to reduce the main steam line isolation trip setpoint and allowable value for main steam line flow-high; reduce the reactor core isolation cooling system (RCIC) isolation trip setpoint and allowable value for RCIC system steam line flow-high; and modify a footnote regarding the deter-mination of the final setpoint for the RCIC system isolation trip setpoint and allowable value for residual heat removal (RHR)/RCIC system steam line flow-high.

The proposed amendment would modify the TSs as follows:

(1) Table 3.3.2-2, item 2.d., would be changed to reduce the current main steam line isolation actuation trip setpoint of less than or equal to 173 psid and allowable value of less than or equal to 178 psid for main steam line flow-high for all four main steam lines (MSLs) to a set of values for each steam line. These proposed values are MSL Flow Line A-High less than or equal to 146 psid (trip setpoint) and less than or equal to 151 psid (allowable value); MSL Flow Line B-High less than or equal to 156 psid (trip set-point) and less than or equal to 161 psid (allowable value); MSL Flow Line C-High less than or equal to 153 psid (trip setpoint) and less than or equal to 158 psid (allowable value); MSL Flow Line D-High less than or equal to 164 psid (trip setpoint) and less than or equal to 169 psid (allowable value). The double asterisk footnote that indicates that the current setpoint is a preliminary setpoint would be deleted because the proposed setpoints are based on data taken during the startup test program.

(2) Table 3.3.2-2, item 5.a., would be changed to reduce the current reactor core isolation cooling (RCIC) system isolation actuation trip setpoint of less than or equal to 222 inches of water and allowable value of less than or equal to 230.5 inches of water for RCIC steam line flow-high. The proposed values are less than or equal to 127 inches of water (trip setpoint) and less than or equal to 135.5 inches of water (allowable value). The double asterisk footnote that indicates that the current setpoint is a preliminary setpoint would be deleted because the proposed setpoints are based on data taken during the startup test program.

(3) The double asterisk footnote applicable to item 5.l., Table 3.3.2-2,

would be changed to indicate that the final setpoint is to be determined during testing prior to operation in the steam condensing mode following the NRC's approval to operate in that mode (see license condition 5.a). Any required change to this setpoint is to be submitted to the NRC within 90 days of test completion.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee addressed the above three standards in the amendment application.

(1) Reduce the current MSL isolation actuation trip setpoint for MSL flow-high. With regard to the three standards, the licensee states:

A. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the setpoint revisions are more conservative than the initial setpoints and are based on startup test data as required by the plant Technical Specifications. This change does not involve a design change or physical change to the plant, and therefore, does not increase the probability of a undetectable break in the Main Steam Line.

Thus, there is no increase in the probability or consequences of any accident previously evaluated.

B. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the setpoint revisions are more conservative than the initial setpoints and are within the bounds of the design basis and the assumption of the accident analysis. These setpoint revisions do not involve a design change or physical change, and therefore, do not alter the single failure design of the instrumentation.

Thus, no new accident scenario is introduced by these revised and more conservative setpoints.

C. The proposed change does not involve a significant reduction in a margin of safety because these setpoint revisions are more conservative and reflect actual startup test data as required by the plant Technical Specifications. These setpoints are within the bounds of the design basis and the assumptions of the accident analysis.

Thus, no margin of safety is reduced.

(2) Reduce the current RCIC system isolation actuation trip setpoint for RCIC steam line flow-high. With regard to the three standards, the licensee states:

A. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the setpoint revisions are more conservative than the initial setpoints and are based on startup test data as required by the plant Technical Specifications. This change does not involve a design change or physical change to the plant, and therefore, does not increase the probability of an undetectable leak in the RCIC system.

Thus, there is no increase in the probability or consequences of any accident previously evaluated.

B. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the setpoint revisions are more conservative than the initial setpoints and are within the bounds of the design basis and the assumptions of the accident analysis. These setpoint revisions do not involve a design change or physical change, and therefore, do not alter the single failure design of the instrumentation.

Thus, no new accident scenario is introduced by these revised and more conservative setpoints.

C. The proposed changed does not involve a significant reduction in a margin of safety because these setpoint revisions are more conservative and reflect actual startup test data as required by the plant Technical Specifications. These setpoints are within the bounds of the design basis and the assumptions of the accident analysis.

Thus, no margin of safety is reduced.

(3) Change the double asterisk footnote applicable to item 5.l. of Table 3.3.2-2. With regard to the three standards, the licensee states:

A. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the change is purely administrative in nature and reflects a condition already established in the operating license.

B. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the setpoints are based upon design calculations which have not been changed.

C. The proposed change does not involve a significant reduction in a margin of safety because the current setpoints are within the bounds of the design basis and the assumptions of the accidents analysis.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the analysis.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Jose A. Calvo

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: June 5, 1987.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to: (1) increase the allowable average drywell air temperature; (2) increase the temperature limit in the main steam tunnel; and (3) increase the main steam tunnel temperature isolation actuation instrumentation setpoints. These changes are being requested because of the temperature indications being received in the drywell during the summer season and because of the temperatures experienced in the main steam tunnel during normal power operation. The proposed amendment would modify the TSs as follows:

(1) TS 3.6.2.6 would be changed to raise the allowable drywell average air temperature from 140° F to 145° F.

(2) Table 3.7.8-1 of the TSs would be changed to raise the allowable temperature limit for the main steam tunnel (north) from 122° F to 135° F.

(3) Table 3.3.2-2 of the TSs would be changed to raise the trip setpoints and allowable values for: (a) the main steam tunnel - south high area temperature for main steam line (MSL) isolation logic from 142° F to 148° F (trip setpoint) and 145.3° F to 151.3° F (allowable value); (b) the main steam tunnel-north high area temperature for MSL isolation, reactor water cleanup (RWCU) system isolation, and reactor core isolation cooling (RCIC) system isolation from 135° F to 141° F (trip setpoint) and 142.5° F to 148.5° F (allowable value); and (c) the main steam tunnel high differential temperature for MSL isolation, RWCU system isolation; and RCIC system isolation from 51° F to 57° F (trip setpoint) and 55° F to 61° F (allowable value).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

margin of safety. The licensee addressed the above three standards in the amendment application.

(1) Raise the allowable drywell average air temperature. With regard to the three standards, the licensee states:

a. No significant increase in the probability or the consequences of an accident previously evaluated results from this change because:

Raising the average drywell area temperature to 145° F is bounded by the temperature range of 100° F to 145° F previously analyzed in the FSAR. The initial temperature (145° F) was originally used and will not exceed the maximum drywell temperature of 330° F. The maximum display temperature reading of the redundant drywell atmosphere temperature monitors is 440° F on a class 1E power supply.

b. This change would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

No new equipment, control logic, or setpoint changes have been added or altered. Reviews have been performed to ensure that existing design of equipment and structures can withstand the higher normal operating temperatures. Equipment qualification and qualified life of equipment has been revised as necessary. A review of the accident analysis indicates that the peak pressure is not changed.

c. This change would not involve a significant reduction in the margin of safety because:

The basis of the Technical Specification 3/4.6.2.6, "Drywell Average Air Temperature", is to ensure that peak drywell temperature does not exceed 330° F during LOCA conditions. FSAR 6.2.1.1.1.5 states that the design basis LOCA for drywell temperature is a small high energy line break, and as stated in FSAR 6.2.1.1.3.1.2, the accident analysis was considered for a range of acceptable initial normal conditions shown in Table 6.2-3a to be 100° F to 145° F for average temperature. Additionally, drywell and containment responses during the LOCA are not affected and remain as analyzed.

The proposed amendment, as discussed above, has not changed the system design, function and operation contained in the FSAR and therefore, will not increase the probability or the consequences of a previously evaluated event and will not create a new or different event. Also, the results of this proposed change are clearly within all acceptable criteria with respect to system components and design requirements. The ability to perform as described in the FSAR is maintained and therefore, the proposed change does not result in a significant reduction in the margin of safety. GSU proposes that no significant hazards are involved.

(2) Raise the allowable temperature limit for the main steam tunnel-north. With regard to the three standards, the licensee states:

a. No significant increase in the probability or the consequences of an accident previously evaluated results from this change because:

The maximum temperature and pressure used in the qualification of equipment in the main steam tunnel-north is not affected by revising the maximum temperature to 135° F. Therefore, the equipment remains within the previously analyzed regions and does not change the results as identified in the Safety Analysis for the main steam line break outside containment.

b. This change would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

No new equipment, or control logic changes have been added or altered. Reviews have been performed to ensure that existing design of equipment and structures can withstand the higher normal operating temperatures. Equipment qualification and qualified life of equipment has been revised as necessary. A review of the accident analysis indicates that the peak temperature and pressure used for equipment qualification are not changed by the proposed amendment.

c. This change would not involve a significant reduction in the margin of safety because:

The proposed change does not affect the performance requirements contained in the Technical Specification Limiting Conditions for Operation. The peak temperature and pressure used in the qualification of equipment in the main steam tunnel-north is not affected by revising the technical specification temperature limit to 135° F. Therefore, the margin of safety has not been significantly decreased.

The proposed amendment, as discussed above, has not changed the system design, function or operation contained in the FSAR and therefore, will not increase the probability or the consequences of a previously evaluated event and will not create a new or different event. Also, the results of the change are clearly within all acceptable criteria with respect to system components and design requirements. As a result, the ability to perform as described in the FSAR is maintained. Therefore, the proposed change does not significantly reduce the margin of safety. GSU proposes that no significant hazards are involved.

(3) Main Steam tunnel temperature isolation actuation instrumentation setpoints. With regard to the three standards, the licensee states:

a. No significant increase in the probability or the consequences of an accident previously evaluated results from this change because:

The temperature setpoints are predicted on an equipment area temperature rise equivalent to a 25 gpm steam leakage rate. The proposed change involved is that the initial area temperature used in the setpoint calculation is now the originally predicted *maximum* normal operating temperature instead of the predicted *average* normal operating temperature. This will reduce the ability of the temperature monitors to isolate a 25 gpm leak during the winter months but it will also reduce the likelihood of spurious isolations during normal full power operation in the summer months. Considering the above, and the fact that the current temperature monitor setpoint has a high chance of inadvertent MSIV, RCIC or RWCU isolations, this change will not result in a significant or unwarranted increase in the probability or consequences of an accident. This change is consistent with the original design basis in that the isolation trip setpoints be based upon an area temperature rise equivalent to RCPB leakage into the monitored areas of 25 gpm. The results of the MSL break outside containment analysis have not been altered with regard to peak temperature, pressure or offsite doses and remain the bounding case for offsite doses.

b. This change would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

No hardware changes are involved and the system function and purpose remain unchanged. The proposed isolation setpoints will still isolate the affected systems prior to crack propogation as postulated in the analysis.

c. This change would not involve a significant reduction in the margin of safety because:

This change is consistent with the original design basis and the Technical Specification basis. The effectiveness of the temperature monitoring instrumentation to mitigate the consequences of an accident (i.e., automatically isolate a small leak at an early stage) has not been significantly reduced.

A degree of area temperature monitoring ability is sacrificed for increased plant availability. However, inadvertent and unnecessary MSIV isolations impose plant transients which create a safety risk in and of themselves. This change is an appropriate compromise between the two. The main steam line circumferential break outside containment still bounds the offsite dose calculations. Therefore, the margin of safety has not been significantly reduced. Additionally, temperature leak detection is a backup to the high flow leak detection system used in the main steam line break outside containment analyses.

Since the proposed amendment does not change any previously revised and approved description or safety analysis as described in the FSAR nor does it create the possibility of a new or different type of accident or significantly reduce the margin of safety, GSU proposes that no significant hazards are involved.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Jose A. Calvo

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: January 16, 1987, as supplemented June 25, 1987

Description of amendments request: The proposed amendments would revise the Technical Specifications for the emergency diesel generators to improve and maintain reliability (per Generic Letter 84-15 issued July 2, 1984), change a number of related Technical Specifications to improve clarity and correct errors, and revise the emergency battery loads testing to allow simulated connected loads during tests. This application was originally noticed on February 26, 1987 (52 FR 5857).

Basis for proposed no significant hazards consideration determination: The Commission's standard for determining whether a significant hazards consideration exists is as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Generic Letter 84-15 on the subject "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability," established new requirements that would reduce the risk of core damage from station blackout events by, among other things, changes to the technical specifications which support a desired diesel generator reliability goal. The licensee proposes to adopt many of the technical specification changes which were determined by the NRR as risk reduction actions. The additional proposal dated June 25, 1987 adds surveillances for water removal, oil sampling and storage tank sampling. The proposed changes, therefore, should reduce the probabilities and consequences of accidents previously analyzed and should increase the margin of safety. The proposed changes will not place the plant in a new or unanalyzed condition, therefore, the changes will not create a new or different kind of accident from any previously analyzed.

The licensee also proposes to change a number of related Technical Specifications to improve clarity and correct errors. Several changes were made to reflect plant design and to make the two Units' Technical Specification alike. There are also a number of editorial changes and error corrections. All of these changes are administrative in nature and do not change the probabilities or consequences of any previously analyzed accidents. The changes reflect plant design similarities and correct errors; therefore, there is no change to plant operation which would result in a new or different kind of accident. The corrections and clarifications will not result in a reduction in any margin of safety.

In amendments 86 and 72 for Unit Nos. 1 and 2, respectively, the licensee was granted approval to test the battery capacities with simulated loads using a load bank in place of the actual loads using the static inverters. The surveillance requirement being changed is to determine the condition of the battery; a separate surveillance test is required for determining the performance discharge through actual battery loads. The use of a load bank which simulates actual loads should not affect the test nor would it significantly increase the probabilities or consequences of any previously analyzed accident. While the battery is connected to the load bank during testing, the battery cannot affect other systems or components which are required to be operable. Therefore, the change would not create a new or different kind of accident from any previously analyzed.

The batteries will continue to be capacity tested on the same frequency; only the method of loading the batteries is changed. Since the change will not impact the batteries in the modes when the batteries are required to be operable, the change will not affect the ability of the batteries to perform their safety function. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: June 3 and June 22, 1987

Description of amendment request: The June 3, 1987 application for license amendment requested changes to Grand Gulf Nuclear Unit 1 Technical Specification (TSs) regarding the definition of core alteration and snubber test sample size. The June 22, 1987 letter provided additional information regarding the snubber test sample size. This notice addresses only the changes regarding snubber test sample size. Surveillance Requirement 4.7.4.e in the Grand Gulf Unit 1 TSs identifies three sample plans for testing snubbers and requires that snubbers shall be functionally tested in accordance with one of the three plans. Sample Plan No. 1 would be changed by decreasing from 10% to 5% the number of additional snubbers that would need to be tested for each snubber in the initial test sample that failed to meet specified functional test criteria.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis about the issue of no significant hazards consideration in its request for a license amendment. The licensee has concluded with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration. The NRC staff has made a preliminary review of the licensee's submittal. A summary of staff's review follows.

All snubbers (except those on nonsafety-related systems) are required by the TSs to be operable in Operational Conditions 1, 2, and 3. Operability of these snubbers helps to ensure that the structural integrity of the reactor coolant

system and all other safety-related systems will be maintained during and following a seismic or other event initiating dynamic loads. In order to ensure operability of these snubbers, surveillance tests are performed using visual inspections and functional tests. The surveillance test frequency is based on maintaining a constant level of snubber protection and is not affected by this proposed technical specification change. To provide assurance of snubber functional reliability, functional tests are required to be performed in accordance with one of three test sample plans. These three test sample plans are specified in Surveillance Requirement 4.7.4.e and summarized below:

Sample Plan No. 1

Functionally test 10% of the total number of snubbers and test an additional 10% of the snubbers for each snubber that fails to meet specified test criteria.

Sample Plan No. 2

Functionally test a sample of the snubbers and determine additional testing for failed snubbers on the basis of TS Figure 4.7.4-1. This figure requires testing of an additional sample equal to one-half the initial sample size for each snubber that fails the test.

Sample Plan No. 3

Functionally test an initial sample of the snubbers and test an additional sample equal to one-half the initial sample size for each snubber that fails the test.

The proposed change affects Test Sample Plan No. 1 by changing the additional test requirement from 10% to 5%. The additional test requirement of 10% in the present TSs was accepted by the NRC as a conservative requirement in the absence of a suitable snubber failure data base. Subsequently, the Committee on Operation and Maintenance of Nuclear Power Plant Components of the American Society of Mechanical Engineers (ASME) has developed a sampling plan which requires that for each failed snubber in the initial test sample, additional snubbers to be tested should equal one-half of the number of snubbers in the initial test sample. The ASME plan is based on the accumulation of snubber performance data throughout snubber life-time. The NRC staff has found the ASME plan to be acceptable in its safety evaluation of a similar change to the snubber sample plan in the Duane Arnold TSs (NRC letter to Iowa Electric Light and Power Company dated March 12, 1985).

The proposed change does not involve a significant increase in the probability of an accident previously evaluated because snubbers are restraints that help to mitigate the consequences of a seismic event or other dynamic loading event and they are not involved in the initiation of an accident. The proposed change does not involve a significant increase in the consequences of an accident previously evaluated because the proposed additional testing requirement of 5% for Sample Plan No. 1 will provide adequate detection capability for snubber failures based on snubber failure data. The ability to detect snubber failures ensures that dynamic restraints are functional and that the consequences of an accident will not be significantly increased.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because snubbers are not involved in the initiation of an accident.

The proposed change does not involve a significant reduction in a margin of safety because the proposed change reduces unnecessary conservatism in Sample Plan No. 1 and results in requirements for additional testing that are similar to those in Sample Plan Nos. 2 and 3. The proposed change is based on snubber failure data and provides adequate assurance that snubber failures will be detected using Sample Plan No. 1. The proposed change for Sample Plan No. 1 makes the additional testing requirement consistent with Sample Plan Nos. 2 and 3. Sample Plan Nos. 2 and 3 presently require that an additional sample equivalent to one-half of the initial sample size be tested for each snubber which does not meet the functional test acceptance criteria.

Accordingly, for the reasons cited above, the Commission proposes to determine that the proposed change in snubber surveillance testing does not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: June 22, 1987.

Description of amendment request: The proposed amendment would revise Sections 3.4 and 4.4 of the Technical Specifications in order to implement the requirements of 10 CFR Part 50, Section 50.62, specifically, Paragraph 50.62(c)(4), which addresses the standby liquid control system (SLCS). Paragraph 50.62(c)(4) requires a standby liquid control system with a minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute of 13 weight percent sodium pentaborate solution.

Basis for proposed no significant hazards consideration determination: The proposed changes to the Technical Specifications have been evaluated by the licensee to determine whether they constitute a significant hazards consideration as required by 10 CFR Part 50, Section 50.91 using the standards provided in Section 50.92. This evaluation is provided below:

The proposed amendment would revise the Technical Specifications to incorporate the requirements of the Anticipated Transients Without Scram (ATWS) Rule for the Standby Liquid Control System (SLCS). The modifications to the SLCS necessary to meet the ATWS Rule, and reflected in the proposed changes, in no way detract from the ability of the SLCS to meet its original design basis. The proposed changes, with a slight increase in the minimum pump flow rate and a doubling of the naturally occurring isotope, Boron-10, in the boron portion of the Sodium Pentaborate, result in being able to achieve shutdown in approximately half the required time. Therefore, this change has no effect on the probability or consequences of an accident previously evaluated or the ability of the SLCS to deal with that accident.

The changes which are being made to comply with the ATWS Rule, are reflected in the proposed license amendment and do not require any mechanical modifications to the SLCS. The changes being made are in the enrichment of the Boron-10 in the Sodium Pentaborate. Boron-10 is a naturally occurring stable isotope and no degradation of the enrichment level will occur over time. Additionally, surveillance requirements have been added to the proposed revison to the technical specifications to provide assurance of continued high system reliability of the SLCS. Other borated solution characteristics, such as concentration, are within the ranges where they have performed satisfactorily in the past. This method of compliance was chosen specifically because of its minimum impact on the SLCS. Therefore, these changes result in no new or different kind of accident from any accident previously evaluated.

The proposed Technical Specifications have deleted no requirement previously contained in the Technical Specifications for the SLCS. The ability of the SLCS to meet its original design basis has been improved by reducing the time needed to achieve shutdown. In addition, operating under the proposed Technical Specifications results in meeting the requirements of the ATWS Rule. The proposed changes will not, therefore, involve a reduction in the margin of safety.

The Commission has reviewed the licensee's evaluation and concurs with their conclusions.

In addition, the Commission has provided guidance concerning the application of the Standards for determining whether a significant hazards consideration exists by providing certain examples in 10 CFR 50.92.

The changes proposed herein are representative of example (vii). They are changes to conform a license to changes in the regulations, where the license changes result in very minor changes to facility operations clearly in keeping with the regulations.

Based on the information provided, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: August 5, 1986 as supplemented November 24, 1986, March 31, April 15, June 22, and July 1, 1987.

Description of amendment request: The proposed amendment would change the Technical Specifications by adding the Inadequate Core Cooling Instrumentation (ICCI) which is required by Item II.F.2 of NUREG-0737, "Clarification of TMI Action Plan Requirements", November 1980. The function of the ICCI is to enhance the ability of the plant operator to diagnose the approach to the existence of, and the recovery from inadequate core cooling. This amendment request was previously noticed on September 10, 1986 (51 FR 32278).

During the review of the amendment request, Omaha Public Power District (the licensee) has responded to staff requests for additional details for certain items; and, in addition, made some corrections to the original submittal. The submittals since the original notice and a description of the information contained follows:

1. November 24, 1986 - This submittal provided changes to the Technical Specifications to account for two concerns of the staff. First was that the time limit in the Limiting Conditions for Operations, were more lenient than the Standard Technical Specifications, and the second concern involved an inconsistency between the format of the Standard Technical Specifications as compared to Fort Calhoun's Technical Specifications.

2. March 31, 1987 - This submittal provided the required number of channels to be operable or action should be taken to submit a special report. In addition, the number of days/hours were specified for allowing in restoring the inoperable channel(s) to operable status or initiating an alternate means of determining subcooled margin, or initiating a plant shutdown.

3. April 15, 1987 - This submittal provided an oversight of the licensee to require a Special Report pertaining to inoperable channels of the post-accident monitoring instrumentation.

4. June 22, 1987 - This submittal was requested by the staff to incorporate all the changes that have been discussed with the licensee into one package. All the changes are addressed in the above three submittals.

5. July 1, 1987 - This submittal superseded the June 22, 1987 submittal in its entirety because a page was missing from this package. To rectify the error, the July 1, 1987 package was submitted with all the changes and the missing page.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exist (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; (3) or involve a significant reduction in a margin of safety.

The staff has performed a preliminary review of the licensee's submittals and agrees that the proposed changes meet the criteria of 10 CFR 50.92(c) because:

(1) The ICCI system is neither credited nor required in the mitigation of any previously evaluated accident and is not relied upon for reactor trip or initiation of any plant safety systems. Therefore, the proposed changes do not affect the probability or consequences of any accident previously evaluated.

(2) Although the ICCI is utilized in the Emergency Operating Procedures for corroboration of selected indications, no change to operating procedures are involved; therefore, no new path is created that may lead to a new or different kind of accident. The proposed changes are intended solely to enhance the ability of the operator to manage accidents and transients by providing the operators with additional corroborative information.

(3) The specific purpose of these changes is to enhance accident and transient monitoring capability. This will make it possible to operate within the margin of safety previously analyzed with a greater degree of confidence and will not affect the magnitude of the safety margin in a positive or negative way.

In addition, the Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, e.g., a more stringent surveillance requirement. The proposed changes are representative of Example (ii) in that it is an addition to the post-accident monitoring instrumentation required by the staff's Post TMI Action Plan. Accordingly, the Commission proposes to determine that the requested changes to the Fort Calhoun Technical Specifications involves no significant hazards considerations.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: October 29, 1986

Description of amendment request: The proposed amendments would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to delete certain requirements that presently exist in Technical Specification 3.4.8, "Reactor Coolant System, Specific Activity." The proposed deletions would include the following:

(1) The requirement to place the reactor in a subcritical condition with Tavg less than 500° F if the specific activity of the reactor coolant is greater than 1 microcurie/gram dose equivalent I-131 but less than the allowable limit curve, as shown in Technical Specification 3.4.8, after 800 hours of cumulative operating time, under these circumstances, in any consecutive 12-month period.

(2) The requirement to prepare and submit a Special Report to the Nuclear Regulatory Commission when the reactor coolant specific activity exceeds 1 microcurie/gram dose equivalent I-131 for 500 hours in any consecutive 6-month period.

Technical Specification 6.9.1.4 would be amended such that when the limits of Technical Specification 3.4.8 are exceeded, the required information pertaining to the iodine spiking event would be included in the Annual Report.

The Bases for Technical Specification 3.4.8 would be amended to delete the reference to restricting reactor operation with more than 800 hours of dose equivalent I-131 above the specified limits. Also, the reference to making a Special Report after 500 hours of iodine spiking events would be deleted.

The proposed changes to Technical Specification 3.4.8 and associated Bases, and Technical Specification 6.9.1.4 would be in accordance with Generic Letter 85-19, "Reporting Requirements on Primary Coolant Iodine Spikes." In Generic Letter 85-19, the NRC determined that the requirement to bring a unit subcritical with Tavg less than 500° F is unnecessary if coolant iodine activity levels exceed certain levels for 800 hours in a 12-month period. Also, the special reporting requirements for dose equivalent iodine activity levels that exceed limits would be included in the Annual Report.

The proposed changes would not alter the value of the dose equivalent iodine concentration and gross activity concentration Technical Specification limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes would not affect the accident analysis, and the limits for reactor coolant dose equivalent I-131 would remain the same. The Technical Specification requirement to shut down the plant if coolant iodine activity limits are exceeded is an operating restriction that is no longer necessary based on a demonstration of successful operating experience, as indicated in Generic Letter 85-19.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes would not necessitate physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in the margin of safety because the proposed Technical Specification revisions would not change the present gross activity limit or dose equivalent I-131 limits.

Accordingly, the licensee has determined that the proposed changes to the Technical Specifications involve no significant hazards considerations.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: November 5, 1986 (Reference LAR 86-07, Rev. 1)

Description of amendment request: The proposed amendments would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to delete Table 3.8-2, "Containment Penetration Conductor Overcurrent Protective Devices," from Technical Specification 3.8.4.2, to add a footnote to Technical Specification 3/4.8.4.2 to indicate that the list of devices will be maintained and controlled at the Diablo Canyon Plant, and to supplement Bases 3/4.8.2 to provide record retention aspects of the device list consistent with 10 CFR 50.71(c). The record retention aspects would require a list to be available at the Diablo Canyon Plant of those circuit limiting fault devices whose current exceeds the penetration rating. This list would be used to identify the devices for which the operability and surveillance requirements of Technical Specification 3/4.8.4.2 would be applied.

Supplement No. 8 to the NRC Safety Evaluation Report for Diablo Canyon required redundant containment penetration fault current protective devices to be installed prior to completion of the first refueling outage. These devices were installed on Unit 2 and are presently included in the Technical Specifications. Installation of the Unit 1 devices was also completed prior to the end of the first Unit 1 refueling outage.

The proposed changes would delete Table 3.8-2, "Containment Penetration Conductor Overcurrent Protective Devices," from the Technical Specifications. The list would be maintained at the Diablo Canyon Plant to identify those devices for which the operability and surveillance requirements of Technical Specification 3/4.8.4.2 are to be applied. This action is similar to that required for snubbers as described in Generic Letter 84-13 and does not degrade compliance with Technical Specification 3/4.8.4.2. Technical Specification 3/4.8.4.2 will continue to require that the containment penetration conductor overcurrent protective devices be operable and

demonstrated operable, with appropriate actions to be taken if the devices are inoperable.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from and accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed revision would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes are administrative in nature in that removing the protective devices list from the Technical Specifications and administratively maintaining the list at the Diablo Canyon Plant neither reduces the existing protective device operability requirements nor affects the accident analyses.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes provide for the list of containment penetration conductor overcurrent protective devices to be maintained and controlled at the Diablo Canyon Plant rather than in the Technical Specifications and, therefore, do not necessitate physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in the margin of safety because the proposed changes are administrative, do not degrade the existing operability and surveillance requirements of the protective devices, and do not affect accident analyses.

Accordingly, the licensee has determined that the proposed change to the Technical Specifications involves a no significant hazards consideration.

The NRC staff has reviewed the proposed amendment request and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: March 23, 1987

Description of amendment request: The proposed amendment would revise the Limerick Unit 1 Technical Specifications (TSs) to include a consideration of wind speed during verification of reactor enclosure secondary containment integrity. The current TS surveillance requirement states that the reactor enclosure secondary containment integrity shall be demonstrated at least once per 18 months by operating one standby gas treatment subsystem for one hour and maintaining greater than or equal to 0.25 inch of vacuum water gauge in the reactor enclosure secondary containment at a flow rate not exceeding 1250 cfm. The requested TS amendment adds the phrase "...with wind speeds of less than or equal to 7.0 mph as measured on the wind instrument on Tower 1 elevation 30' or, if that instrument is unavailable, Tower 2 elevation 159'." In addition, it is requested that the bases for TS Section 3/4.6.5 be amended to include a discussion of reactor enclosure secondary containment leakage and meteorological conditions. The proposed change will provide clarification that the leakage criteria corresponds to meteorological conditions consistent with the assumptions utilized in the design basis offsite dose analysis (less than or equal to 7.0 mph wind speed).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of each of the above criteria for the amendment request and has determined that the proposed amendment does not constitute a significant hazards consideration in that it would not:

(i) involve a significant increase in the probability or consequences of an accident previously evaluated. The addition of the wind speed to the Surveillance Requirement in TS Section 4.6.5.1.1.c.2 does not increase the probability of the Loss of Coolant Accident previously evaluated in FSAR Section 15.6. The consequences of the accident are not increased because the proposed wind condition is one of the assumptions included in the current FSAR analysis.

(ii) create the possibility of a new type of accident or a different kind of accident from any accident previously evaluated. Including the wind speed in the Surveillance Requirement serves to make the TS consistent with the Loss of Coolant Accident evaluated in FSAR Section 15.6. No new or different kinds of accidents are created by the consideration of wind speed.

(iii) involve a significant reduction in the margin of safety. The addition of the wind speed to the Surveillance Requirement of TS Section 4.6.5.1.1.c.2 provides consistency with the assumptions for the analysis of the accident evaluated in FSAR Section 15.6. Therefore, there is no effect on margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff has made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 29, 1987

Description of amendment request: The proposed amendment would provide editorial corrections and changes to the Administrative Controls section of the Trojan Technical Specifications.

More specifically: (a) The referenced amendment number at the bottom of Page 6-6 would be changed to correct a typographical error; (b) Section 6.5.1.6, Item f., the term "reportable occurrences" would be changed to "reportable events;" (c) Section 6.8.2 would delete its applicability to temporary changes; (d) Section 6.8.3, Item C., would change the title of "Nuclear Projects Quality Assurance Program for Operations" to "Nuclear Quality Assurance Program"; and (e) Section 6.9.1.5.3 would be revised to correct a typographical error.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety. The Commission has also provided guidance concerning the application of these standards by providing certain examples (March 6, 1986, 51 FR 7751). An example of an amendment that is considered not likely to involve a significant hazards considerations is Example (i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

The proposed changes to Page 6-6 and Section 6.9.1.5.3 correct a typographical error, and the changes to Section 6.5.1.6 and 6.8.3 simply revise a title and terminology to provide consistency within the Technical Specification. The proposed change to Section 6.8.2 corrects an error since temporary changes are explicitly controlled by an existing Technical Specification, Section 6.8.3.

The staff has reviewed the licensee's no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 S. W. 10th Avenue, Portland, Oregon 97205

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: March 6, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to accomplish the following:

(a) Add new TS that provide the option of using either a 12-inch line (with valve number 27 MOV-120) or a 6-inch line (with valve number 27 MOV-121) for inerting and deinerting the primary containment. For the 12-inch line, the TS would also ensure that the integrity of the Standby Gas Treatment System (SBGTS) is maintained if a Loss of Coolant Accident (LOCA) occurs by limiting the maximum pressure drop across the High Efficiency Particulate Absolute (HEPA) filters. The 6-inch line, currently used for inerting and deinerting, requires no restrictions to prevent overpressurization of the HEPA filters. Use of the 12-inch line would reduce the time required for these operations.

(b) Clarify the existing TS regarding inoperable containment isolation valves. This would provide greater assurance of containment isolation by more specifically describing actions to be taken in the event an isolation valve becomes inoperable. The proposed change would require that at least one isolation valve be operable in each affected penetration that is open, and, either restoring the inoperable valve(s) to operable status within 4 hours, or isolating each affected penetration within 4 hours.

(c) Add new TS that limit the maximum angle of opening for the containment vent and purge valves to ensure their operability during a design basis LOCA, and to reduce the closure times specified in the existing TS for these valves. The proposed change also would ensure that the containment vent and purge valves would be opened only for specified safety related reasons.

In addition, an editorial change has been made to TS page 183 for purposes of clarification.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

Operation in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated because:

(a) The proposed revisions, on the contrary, would ensure the integrity and operability of the SBGTS if a LOCA occurs during inerting or deinerting the primary containment. This assurance would be provided when the 6-inch line is used because the corresponding maximum flow is such that the delta P across the HEPA filter would remain within the design limits. The proposed change would also provide assurance of integrity and operability of the SBGTS when the 12-inch line is used by imposing additional limitations on the operation of the system that would limit the delta P across the HEPA filter.

(b) The proposed revisions would assure the operability and integrity of the vent and purge valves during a design basis LOCA. To ensure that these valves would close against LOCA loads, the proposed change would impose new restrictions which limit the maximum angle of opening. The proposed changes would also revise valve closure times to provide adequate margin to ensure closure within calculated limiting time values.

(c) The proposed revisions would provide greater assurance of containment isolation in the event of an accident by imposing new restrictions on isolation and restoration of inoperable valves to operable status.

Similarly, because the proposed revisions represent additional restrictions and limitations intended to provide greater assurance of containment isolation and of the operability and integrity of the SBGTS and containment vent/purge valves under LOCA conditions, the proposed revisions cannot create the possibility of a new or different kind of accident, nor involve a significant reduction in margin of safety.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State

University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra, Acting Director

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: May 7, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications with regard to the Fuel Storage Building (FSB) Emergency Ventilation System. The upper and lower bypass dampers of the ventilation system are being replaced by manual isolation devices. This replacement is intended to enhance system operation and ensure a proper seal. The proposed changes to the Technical Specification are being requested to clarify operation of the ventilation system.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee made the following analysis of these changes:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The probability of a fuel handling accident is not affected by this proposed change. However, the probability and consequences of a release to the atmosphere due to a fuel handling accident are in fact reduced. Air from the FSB Emergency Ventilation System will be discharged through the HEPA filters and charcoal adsorbers during all fuel handling operations, or the evolutions that could result in a radioactive release from irradiated fuel, thereby ensuring no direct release to the atmosphere.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Automatic isolation of the bypass assembly is required to protect against a potential fission product release to the atmosphere during a fuel handling accident. However, with the installation of these manual isolation devices the need for automatic isolation is no longer required. With these isolation devices installed, air flow is directed through the HEPA filters and charcoal adsorbers, thus ensuring no direct release to the atmosphere. Therefore, with the proper procedural controls, which the Authority is incorporating into IP-3's procedures, the need for automatic isolation of the bypass assembly is precluded. This proposed amendment, therefore, does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a significant reduction in a margin of safety. The margin of safety is actually increased as a result of the proposed amendment since air from the FSB Emergency Ventilation System will be discharged through the HEPA filters and charcoal adsorbers at all times during fuel handling operations. Since the fuel handling accident analysis in the FSAR does not credit the existence of charcoal adsorbers, the change in no way reduces the safety margin established by current accident analysis.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019

NRC Project Director: Robert A. Capra, Acting Director

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Plattesville, Colorado

Date of amendment request: June 25, 1987 (P-87124)

Description of amendment request: These proposed changes to the Fort St. Vrain Technical Specifications concern LCO 4.1.9, Minimum Helium Flow and Maximum Core Region Temperature Rise, and a proposed new Technical Specification, SR 5.1.8, which incorporates the associated surveillance requirements. Minimum helium flow and maximum core region temperature rise are specified at low power levels to assure that reactor safety limits are not violated. The associated surveillance requirements assure compliance with the LCO by specifying the frequency at which compliance is verified.

Earlier notices concerning these changes were published on January 26, 1984 at 49 FR 3352, and December 17, 1986 at 51 FR 45214.

Basis for proposed no significant hazards consideration determination: This Technical Specification specifies minimum allowable total flow and maximum allowable region temperature rise to assure that flow stagnation or reversal does not occur and thus, that excessive fuel temperature is prevented. These limits are necessary between 0 percent and approximately 25 percent power because the core power-to-flow ratio limits of Safety Limit 3.1 and the region outlet temperature mismatch limits of Specification LCO 4.1.7 do not, by themselves, preclude the adverse flow conditions. At higher power levels, the power-to-flow and region outlet temperature limits are sufficient to preclude excessive fuel temperatures and fuel failure.

The proposed Specification corrects errors in the original analysis, includes allowances for explicit uncertainties associated with thermal power and total circulator flow (instrument errors) measurements, and makes the assumptions consistent with plant operation. In addition, minimum coolant flow curves were added for 1 to 10 orifice valves more open than the equal flow position. Curves were also added for maximum region temperature rise when either no orifice valve is less than 6 percent open or less than 8 percent open. These additional curves facilitate the transition from equal flow orifice positions to equal region outlet temperature orifice positions. Minimum coolant flow curves were also added for reduced helium density conditions since the lower densities result in smaller helium buoyancy effects.

The proposed flow and temperature limits are significantly more restrictive than the corresponding limits in the existing Technical Specification. The new curves that have been added to permit operation when up to 10 orifice valves are further open than the equal flow position, have the same degree of conservatism that is included in the equal flow position curves. In determining the total circulator flow requirements, it was assumed that any orifice valve further open was full open and the total circulator flow requirements were increased so that the

minimum flow in any coolant channel would not be less than that required when all orifice valves are set for equal flow. The same philosophy was applied when generating the new curves to limit the maximum region temperature rise when the orifice valves are set at any position, but no orifice valve is either less than 6 percent open or less than 8 percent open.

The applicability of the proposed Specification has been limited when the reactor is in the shutdown mode to that condition when the calculated bulk core temperature is greater than 760 degrees F. This excludes the case when the amount of thermal energy from fission product decay is sufficiently low to prevent the average core temperature from exceeding 760 degrees F even if there is no helium coolant flow. The expected gas coolant temperatures at full power are 760 degrees F (core inlet and upper plenum) and 1460 degrees F (core outlet and steam generator inlet). The upper plenum internal components, including the control rod drive and orifice assemblies and thermal barrier, have been designed to be consistent with this temperature environment.

Consequently, limiting the calculated bulk core temperature during a primary coolant flow termination to 760 degrees F would conservatively ensure that both the core and prestressed concrete reactor vessel internals would be protected when the primary coolant flow is resumed.

In summary, our evaluation of significant hazards considerations is as follows: (1) FSAR accident analyses have been reviewed to determine the effect, if any, of this change on these analyses. Since the proposed changes increase the minimum flow requirements and decrease the allowable region temperature rise, they preclude flow stagnation or reversal, and there is no adverse impact on any accident previously analyzed in the FSAR; (2) The proposed Technical Specification change does not involve any modification of plant systems, equipment, or structures. The only changes to plant operating procedures are to ensure compliance with the revised limits. Thus, these changes would not create a new or different type of accident than any previously evaluated; and (3) A review of the margins of safety associated with this Technical Specification confirms that the margins of safety are not reduced by this change. In fact, the new limits represent a significant increase in the minimum flow required and a significant decrease in the allowed temperature rise. Both of these changes provide additional assurance that excessive fuel temperatures are prevented.

Based on the above evaluation, the staff proposes to determine that operation of Fort St. Vrain in accordance with the proposed changes will not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in any margin of safety. Accordingly, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration. Local Public Document room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201-0840

NRC Project Director: Jose A. Calvo

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: March 26, 1987

Description of amendment request: The amendment would revise Technical Specification Table 3.12-1, "Radiological Environmental Monitoring Program, Virgil C. Summer Nuclear Station." These changes would reduce the total number and control number of continuous air sampling locations, add a control water sample location, and reduce the number of food product indicator locations.

These changes are based on Technical Specification Bases Section 3/4.12, which states in part, that "...program changes may be initiated based on operation experience."

Basis for proposed no significant hazards consideration determination: The Technical Specification (TS) requirement is for 5 indicator and 2 control continuous air sampling stations. The radiological environmental surveillance program has routinely included 11 to 14 continuous air sampling stations, 2 to 3 of which have been control stations.

Plans are to reduce the total number of continuous air sampling locations to one less than the current minimum number required by TS. In conjunction with this program reduction is a requested change in the required number of control locations from 2 to to 1. A review of baseline and operational data indicates that the elimination of one control location will not adversely impact the ability to discern station operational effects from macro-regional effects. That fact was further emphasized while monitoring the Chernobyl event. Should similar global events or releases from V. C. Summer Nuclear Station (VCSNS) occur, portable air samplers can be deployed. Those units are maintained in a calibrated operational status at the Environmental Lab. The control location to be maintained is in Columbia, 25 miles southeast of VCSNS (Site 17). The control location to be deleted is near Newberry, 26 miles west of VCSNS (Site 19).

The TS requirement for drinking water does not include a control sample location. A finished water sample from an unaffected water supply (control) with a requirement for monthly composite sampling is to be added. The type and frequency of analysis will be identical to that required for the 2 indicator samples. The control water sampler will be maintained at the Lake Murray Water Treatment Facility, 14 miles south-southeast of VCSNS and on an unaffected water shed (Site 39).

The TS requirement for food products is for 3 broadleaf vegetation samples grown in the 3 nearest offsite locations for highest calculated annual averaged ground level D/Q values. A change from 3 to 2 indicator locations is requested. Gardens will be maintained at locations 1 mile, east-southeast (Site 6) and 1.5 miles, east-northeast (Site 8), respectively. These locations have consistently remained the highest relative deposition (D/Q) locations with real potential for offsite exposures as revealed in the annual land use census and meteorological monitoring activities conducted since 1978. The present food products requirement is compensatory in nature due to the lack of a dairy within five miles. Given the exiguousness of the dairy industry in the region, the stability of land use (pulpwood production in the Southern Sectors), the lack of nearby residences in the Southern Sectors and the continuing requirement to establish sampling of the media should land use change, relief from that requirement is requested.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92 (c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously

evaluated; or (2) create the possibility of a new or different kind of accident from accidents previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the requested amendment does not involve significant hazards considerations for the following reasons:

1. The changes would not involve a significant increase in the probability or consequences of an accident previously evaluated. Neither the elimination of sampling locations nor the addition of sampling locations has bearing on the possibility or consequences of an accident or on South Carolina Electric and Gas Company's (SCE&G) ability to monitor offsite accident conditions. Analytical data obtained from indicator or control locations with respect to accident conditions provides after-the-fact information.

Since SCE&G's ability to provide additional post accident sampling has been established in the Emergency Plan and implementing procedures, the proposed changes do not involve an increase in the probability or consequences of an accident.

2. The changes would not create the possibility of a new or different kind of accident from any accident previously evaluated. Environmental surveillance activities are conducted offsite and cannot create the possibility of a new or different kind of accident.

3. The changes would not involve a significant reduction in a margin of safety. The margin of safety is not affected by the addition or by the deletion of a control sampling location. Baseline data are on record, should the need arise, to determine plant effluent effects.

Furthermore, the annual requirement to assess land use and potential for exposure, via the land use census and meteorological data, supports this determination. With respect to the deletion of the vegetation sample location, 3 years of operational experience show that only two sectors consistently remain the highest D/Q Sectors. Gardens located in these sectors and maintained by SCE&G provide adequate means to assess plant impacts on the environment and population. The Plant Emergency Plan and implementing procedures provide a mechanism for additional sampling should accident conditions occur. Therefore, elimination of a third routine location not having a high D/Q value does not significantly reduce a margin of safety.

The staff has reviewed the licensee's determination and finds it acceptable. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: March 31, 1987

Description of amendment request: The amendment would remove all fire protection requirements from the Technical Specifications (TS). Also, TS 6.5.1.6, "Plant Safety Review Committee (PSRC) Responsibilities" will be revised to include the fire protection program and its revisions. Finally, a requirement will be added to license condition 2.C.(18) which states that, "The licensee may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire." These changes are consistent with the recommendations contained in NRC Generic Letter 86-10, "Implementation of Fire Protection Requirements."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Fire Protection Evaluation Report (FPER) will be incorporated by reference into Chapter 9 of the Final Safety Analysis Report (FSAR) and the fire protection requirements will be removed from the TS. The V. C. Summer Fire Protection Program will then be completely described and controlled through the FSAR/FPER and Station Administrative procedures.

The staff has determined that the requested amendment: (1) would not involve a significant increase in the probability or consequences of an accident previously evaluated because no changes to the Fire Protection Program are being made, and (2) would not create the possibility of a new or different kind of accident from any accident previously evaluated because no physical plant changes are made by this amendment. Also, the amendment (3) would not involve a significant reduction in the margin of safety because any change to the Fire Protection Program will still be subject to a controlled review process.

Accordingly, the Commission proposes to determine that these changes do not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: April 17, 1987 (TS 87-07)

Description of amendment requests: Tennessee Valley Authority proposes to amend the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications to revise Tables 3.3-7 and 4.3-4, "Seismic Monitoring Instrumentation." The proposed changes would correct the specified measurement range of four seismic recorders, the specified location of four seismic monitors and one recorder, and the surveillance requirements on three seismic monitors and one recorder.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis.

The elevations given in technical specification 3.3.3.3, tables 3.3-7 and 4.3-

4, for seismic monitors O-XR-52-82, O-XR-52-83, and O-XR-52-84 are in error. They are inconsistent with the as-built configurations and with other design drawings, which give the correct values. The proposed amendment would correct the erroneous values and put them in agreement with the actual elevation values and the values found in those design drawings.

Also, table 4.3-4 of technical specification 3.3.3.3 states that a channel functional test is not necessary for monitor O-XR-52-86. However, American Nuclear Society Standard 2.2 requires that a channel functional test be performed on all active instruments (instruments that require an outside power source) in six-month intervals (page B-10, Table 1). According to contract 76K6-820172, instrument O-XR-52-86 was requisitioned with an uninterruptible power supply. Also, cognizant plant personnel have given confirmation that instrument O-XR-52-86 does contain a switch and is in fact an active instrument, in agreement with the contract. Therefore, table 4.3-4 of technical specification 3.3.3.3 is amended to read SA (semiannual) for the channel functional test.

Another amendment that needs to be made to table 4.3-4 is the inclusion of a seismic trigger in the channel calibrations of instruments 0-XT-52-75A, O-XT-52-75B, an O-XR-52-77. As the table identifies, these instruments are time-history accelerographs. In the definition of a time-history accelerograph in American Nuclear Society Standard 2.2, page B-5, a trigger is included as a component of the instrument. This necessitates the inclusion of the trigger under the channel calibration heading of table 4.3-4 for these instruments.

Finally, the measurement range of instruments O-XR-52-86, -87, -88, and -89 is incorrectly specified. In paragraph four of the recommendation for award, memorandum number 1, of contract 76K6-820172, the contractor identified that the upper measurement range of recorder O-XR-52-86 is 32g, in disagreement with the value of 90g given in table 3.3-7. This was apparently an oversight in the original technical specifications. In addition, all replacement reeds for all four monitors render the upper measurement value at 32g because of present vendor specifications. To facilitate the inevitable incorporation of replacement reeds and/or replace instruments (the upper value of which is also 32g), Table 3.3-7 should be corrected to read 32g. This value is still many times greater than the maximum expected seismic activity for Sequoyah. The proposed change would enter the correct value in Table 3.3-7 of technical specification 3.3.3.3.

(1) Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed corrections do not result in a change in current plant configuration. Rather, they correct table entries in a technical specification for hardware currently installed in the plant. Therefore, the proposed corrections entail no increase in the probability or consequences of an accident that has been previously evaluated.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes do not affect normal operating procedures or emergency operating instructions for the plant. The one change in operating limits that results from the corrections is the lowering of the upper limit on the measurement range of response-spectrum recorders to 32g. As stated in paragraph four of the recommendation for award, memorandum number 1, of contract 76K6-820172, this limit is still many times greater than the maximum expected g level for Sequoyah. Therefore, the proposed technical specification change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in margin of safety?

No. The proposed corrections actually increase the overall safety of the plant by correcting typographical errors, establishing a stricter maintenance schedule for the monitors, and giving the true measurement range of seismic instrumentation. Therefore, the proposed corrections do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analyses. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of amendment request: June 18, 1987.

Description of amendment request: The proposed amendment would revise the definition of the fully withdrawn shutdown and control rod position from 228 steps to 225 steps or higher.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Repositioning the rod banks at 225 steps or higher for fully withdrawn has been evaluated to have negligible impact on power distributions, shutdown margin, accident peaking factors and rodworths, or departure from nucleate boiling ratio (DNBR) margin. Sufficient margin exists between calculated safety parameters and safety limits to accommodate slight variations in calculated values over previous analyses. Repositioning the rod banks will reduce localized wear, extend life, and decrease any consequences or possibility of malfunction.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes associated with repositioning the rod banks. A design change or a new plant system is not required. The rods continue to meet their functional requirements, and operation of the current system is unaltered.

The proposed change does not involve a significant reduction in a margin of safety. Callaway has sufficient margin between calculated safety parameters

and safety limits to accommodate slight variations in parameters due to repositioning the rods. There is no significant reduction in the shutdown margin, peaking factors, or DNBR margin.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety. The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 29, 1987.

Description of amendment request: The proposed amendment request revises Wolf Creek Generating Station (WCGS) Technical Specification Table 3/4.3.1, Reactor Trip System Instrumentation, in accordance with the requirements of Generic Letter 85-09.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

In response to the NRC requirements issued in Generic Letter 85-09, the following revisions are being made to Technical Specification 3/4.3.1:

ACTION 12 is being added to Table 3.3-1. This action statement corresponds to Functional Unit 19 (Reactor Trip Breakers) and allows continued plant operation for up to 48 hours with one of the diverse trip features inoperable. The proposed Reactor Trip Breaker surveillances will serve to independently verify the operability of the shunt and undervoltage trip features. There is a high degree of confidence that the remaining operable trip feature would be capable of initiating a reactor trip within the allowed 48 hours.

Table Notation 11 of Table 4.3-1 has been revised to verify the operability of the undervoltage and shunt trip circuits for Functional Unit 1 (Manual Reactor Trip). This notation will also verify the OPERABILITY of the Bypass Breaker trip circuits.

Table Notation 14 is being added to Table 4.3-1. This notation corresponds to Functional Unit 19 (Reactor Trip Breaker). The proposed notation requires that the TRIP ACTUATING DEVICE OPERATIONAL TEST shall independently verify the OPERABILITY of the undervoltage and shunt trip attachments of the Reactor Trip Breakers.

Table 4.3-1 is being revised to add Functional Unit 21 (Reactor Trip Bypass Breaker). This Functional Unit requires a TRIP ACTUATING DEVICE OPERATIONAL TEST (TADOT). Table Notation 15 requires a local manual shunt trip prior to placing the breaker in service. Table Notation 16 requires an automatic undervoltage trip.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. These changes are being proposed to comply with NRC requirements issued in Generic Letter 85-09. These changes serve to ensure the reliable operation of the Reactor Trip Breakers without unnecessarily compromising their overall availability. An allowed outage time of 48 hours is established for the loss of one diverse trip feature (undervoltage or shunt trip attachment). This is consistent with the requirements of the proposed surveillances (Table Notations) to independently verify the OPERABILITY of the undervoltage and shunt trip attachments, their associated circuits, and the bypass breakers. Thus the temporary inoperability of one of the diverse trip features would not significantly affect the capability of initiating a reactor trip within the allowed 48 hours. The proposed changes do not significantly affect the ability of the Reactor Trip Breakers to perform their safety function.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes or mechanisms associated with the proposed changes. These changes do not involve any modification in the operational limits or physical design of the involved systems. The changes establish an ACTION statement allowed outage time based upon confidence in the operability of diverse features and appropriate surveillance requirements in accordance with NRC requirements.

The proposed changes do not involve a significant reduction in a margin of safety. These changes do not affect any Technical Specification margin of safety. The capability of the Reactor Trip Breakers to perform their safety function is not significantly affected by the proposed Technical Specification revision.

The Commission has established guidance concerning the determination of whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments not likely to involve a significant hazards consideration. The proposed Technical Specification 3/4.3.1 conforms to NRC example (ii) "A change that constitutes an additional limitation, restriction or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement."

Based on the above discussions it has been determined that the requested Technical Specification revisions do not involve a significant increase in the probability or consequences of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Therefore, the requested license amendment does not involve a significant hazards condition.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: May 21, 1987

Brief description of amendment: Millstone Unit No. 1 Technical Specification (TS) change request to reflect Reload 11/Cycle 12 operation. The proposed changes will amend the current minimum critical power ratio (MCPR) linear heat generation rate (LHGR) and maximum average planar linear heat generation rate (MAPLHGR) due to reload of 196 new (unirradiated) General Electric Type 6E8 x 8EB (GE-8B) fuel assemblies.

Date of publication of individual notice in **Federal Register:** July 2, 1987 (52 FR 25099).

Expiration date of individual notice: August 3, 1987.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: May 22, 1987

Brief description of amendment: The amendment would revise Sections 3.4, 4.4, and the associated Bases of the Technical Specifications (TS) in accordance with the licensee's application for amendment dated May 22, 1987. These changes are being proposed to ensure compliance with the ATWS rule (10 CFR 50.62) which requires all BWRs to have a standby liquid control system (SLCS) with a minimum flow capacity equivalent to 86 gpm of 13 weight percent sodium pentaborate solution. At Millstone Unit 1, the equivalent flow capacity, as clarified in Generic Letter 85-03, "Clarification of Equivalent Control Capacity for Standby Liquid Level Control Systems," dated January 28, 1985, will be achieved by utilizing B-10 enriched sodium pentaborate. The minimum SLCS system parameters being proposed are: pump flow rate of 40 gpm; solution concentration of at least 11%; solution volume of at least 1850 gallons; and a minimum B-10 enrichment of 50 atom percent.

Date of publication of individual notice in **Federal Register:** July 2, 1987 (52 FR 25097).

Expiration date of individual notice: August 3, 1987.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of application for amendment: May 6, 1987.

Brief description of amendment: The amendment grants a one time exception from the provisions of Section 3.8.15 for the period of July 13, 1987 thru August 12, 1987. The exception allows the auxiliary building crane to handle a spent fuel shipping cask containing six spent fuel rods.

Date of issuance: July 10, 1987.

Effective date: July 10, 1987.

Amendment No.: 107

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 14, 1986 (52 FR 18297) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: October 1, 1986, as supplemented March 13, March 19, April 17 and May 4, 1987.

Brief description of amendments: These amendments (1) modify TS 3/4.1.3, "Movable Control Assemblies" by lengthening the response time and increasing the maximum reactor thermal power limit for control element assembly misalignments of greater than fifteen inches and (2) extend the response time for containment purge valves isolation on a containment radiation-high signal as specified in TS Table 3.3-5, "Engineered Safety Features Response Times," to less than or equal to seven seconds. In addition, several administrative changes were made.

The supplements to the October 1, 1986 submittal did not affect the proposed TS changes noticed in the **Federal Register** on January 28, 1987 and did not affect the staff's proposed no significant hazards consideration.

Date of issuance: July 7, 1987

Effective date: July 7, 1987

Amendment Nos.: 127 and 109

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2872)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 7, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: January 19, 1987, as supplemented on February 25, 1987

Brief description of amendment: The amendment revises Technical Specification 4.7.B.2.a by reducing the differential pressure criteria for replacing filters in the Control Room High Efficiency Air Filtration (CRHEAF) System from 8 to 6 inches of water.

Date of issuance: June 23, 1987

Effective date: 30 days from date of issuance

Amendment No.: 101

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 6, 1987 (52 FR 16941) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: March 9, 1987

Brief description of amendment: Revises Technical Specifications to reflect current organization.

Date of issuance: July 10, 1987

Effective date: July 10, 1987

Amendment No.: 114

Facility Operating License No. DPR-23: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13333) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: December 31, 1986

Brief description of amendment: This license amendment modifies Technical Specification 3.20, "Reactor Coolant System Flow, Temperature and Pressure," and Technical Specification Figure 2.2-2 to include revised three-loop operation safety limits and reactor coolant system (RCS) flow rate requirements based upon the results of loop flow measurements conducted during the Cycle 14 (current cycle) startup. By letter dated August 7, 1986, Connecticut Yankee Atomic Power Company (CYAPCo) has administratively prohibited three-loop operation at the Haddam Neck Plant until the revised safety limits, based on the lower measured loop flow rates, have been reviewed and approved by the staff.

Date of issuance: July 6, 1987

Effective date: July 6, 1987

Amendment No.: 91

Facility Operating License No. DPR-61: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2879). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 6, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: February 28, 1986, as supplemented November 14, 1986 and April 15, 1987

Brief description of amendment: The amendment changes the expiration date of Facility Operating License No. DPR-67 from July 1, 2010 to March 1, 2016.

Date of Issuance: July 8, 1987

Effective Date: July 8, 1987

Amendment No.: 82

Facility Operating License No. DPR-67: Amendment revised the Facility Operating License.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10451 at 10458) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1987, and in and Environmental Assessment dated May 29, 1987 (52 FR 21634).

No significant hazards consideration comments received: No.

Additional information was provided by the licensee subsequent to the notice in **the Federal Register.** The information provided further bases for approval of the amendment and did not alter our proposed determination of No Significant Hazards Consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of application for amendment: May 8, 1987

Brief description of amendment: The amendment adds a new Technical Specification to require analysis for Boron-10 concentration prior to startup from each refueling outage.

Date of issuance: July 7, 1987

Effective date: July 7, 1987

Amendment No.: 142

Facility Operating License No. DPR-57: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 3, 1987 (52 FR 20800) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Dates of applications for amendments: September 5, 1984, August 20, 1985, and January 7, 1986, as supplemented June 26, 1986

Brief description of amendments: The amendments modify the Technical Specifications by adding limiting conditions for operation, trip setpoints, and surveillance requirements for the monitors which provide the high radiation closure signals to the containment purge and vent valves.

Date of issuance: July 14, 1987

Effective date: July 14, 1987

Amendment Nos.: 143 and 78

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Dates of initial notices in Federal Register: November 21, 1984 (49 FR 45952), September 25, 1985 (50 FR 38915) and May 21, 1986 (51 FR 18683). The June 26, 1986 submittal furnished additional information which did not affect the staff's initial determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 14, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: March 19, 1987

Brief description of amendment: The amendment changes Technical Specification Section 6, "Administrative Controls" to reflect changes in the management of licensing activities, emergency planning, plant engineering, Unit 2 construction, training, accounting, plant security, records, office services, plant technical support, and industrial safety.

Date of issuance: July 7, 1987

Effective date: July 7, 1987

Amendment No. 33

Facility Operating License No. NPF-29: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 22, 1987 (52 FR 13339) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: April 8, 1987

Brief description of amendment: This amendment deletes License Condition 2.C.(20) which prohibited placement of irradiated fuel in the GGNS-1 spent fuel storage pool prior to completion of modifications to the standby service water system. Modifications to the standby service water system have been completed.

Date of issuance: July 7, 1987

Effective date: July 7, 1987

Amendment No: 34

Facility Operating License No. NPF-29: This amendment revised the License.

Date of initial notice in Federal Register: June 3, 1987 (52 FR 20802) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station Unit No. 3, Town of Waterford, Connecticut

Date of application for amendment: January 5, 1987

Brief description of amendment: The amendment revises the Technical Specification Section 3.4.1.3 and Bases Section 3/4.4.1 to change the Limiting Condition for Operation (LCO) regarding the number of reactor coolant loops in operation during hot shutdown conditions. Section 3.4.1.3 is revised to incorporate the requirement to have two reactor coolant pumps operating in Mode 4 when the reactor trip breakers are closed.

Date of issuance: July 9, 1987

Effective date: July 9, 1987

Amendment No.: 7

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 25, 1987 (52 FR 9578) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: April 13, 1987.

Brief description of amendments: The amendments changed the technical specifications (TS) by revising the hot channel factors F_q and F_{deltaH} that are used in the analysis to establish the power distribution limits of the technical specifications.

Date of issuance: July 8, 1987.

Effective date: July 8, 1987.

Amendment Nos.: 81 and 74.

Facility Operating License Nos. DPR-42 and DPR-60: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 20, 1987 (52 FR 18970 at 18982) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 8, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

NRC Project Director: David L. Wigginton, Acting.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendment: September 29, 1986 as revised April 6, 1987

Brief description of amendment: These amendments changed the Technical Specifications for Susquehanna Steam Electric Station, Units 1 and 2 to correct an omission in the Technical Specifications by providing an Action Statement in Section 3.3.3. In a letter dated April 6, 1987, the licensee withdrew a part of their request contained in the September 29, 1986 submittal dealing with note (g) to Table 3.3.3-1. Accordingly, we have not acted on that part of the request.

Date of issuance: July 2, 1987

Effective date: July 2, 1987

Amendment Nos: 66 and 37

Facility Operating License Nos. NPF-14 and NPF-22: These amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 17, 1986 (51 FR 45212) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 2, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: January 13, 1987, as supplemented on March 25 and April 9, 1987

Brief description of amendment: This amendment changed the Technical Specifications (TSs) to permit the completion of the physical modifications, testing and other actions to facilitate connection of the standby gas treatment system (SGTS) to the refueling area. The changes to the TS will enable establishment of the operability of the SGTS service to the refueling area in response to License Condition 2.C(14).

Date of issuance: July 8, 1987

Effective date: The license amendment is effective upon initial entry into either Operational Condition 3 or 2 during startup following the first refueling outage.

Amendment No: 6

Facility Operating License No. NPF-39: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11367) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: February 9, 1987

Brief description of amendment: The amendment modifies the definition of Tube Inspection to reflect the definition recommended in Generic Letter 85-02. In addition it deletes the historical references to the tube plugging limit of 63% degradation which was valid for Cycle 4 only. Table 4.9-1 is revised to reflect that a defective tube may be repaired by plugging or sleeving. Additionally, the Bases for Section 4.9 has been revised and updated to provide new information for wastage-type defects. The February 9, 1987 submittal requested that the Technical Specifications be revised to permit the resumption of power operation without prior NRC approval subsequent to a steam generator inspection whose results have been classified as C-3 (i.e., all tubes were inspected per the provisions of Table 4.9-1 of the Technical Specifications). This portion of the amendment is being denied.

Date of issuance: July 7, 1987

Effective date: July 7, 1987

Amendment No.: 76

Facilities Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 6, 1987 (52 FR 16953). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: May 21, 1987

Brief description of amendment: The amendment revises the Technical Specifications to allow an Integrated Leak Rate Test of less than 24 hours in accordance with the NRC approved methodology contained in BN-TOP-1, Revision 1. The licensee requested to also include reference testing in accordance with other NRC methodologies has not been incorporated because there are currently no other approved methodologies applicable to Indian Point 3.

Date of issuance: July 13, 1987

Effective date: July 13, 1987

Amendment No.: 77

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 10, 1987 (52 FR 22013) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 13, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: March 6, 1987

Brief description of amendment: The amendment changes the Indian Point 3 Technical Specifications relative to the Reactor Vessel Level Indication System (RVLIS). The purpose of the proposed changes is to incorporate the appropriate limiting conditions for operation and the surveillance requirements for RVLIS. The installation of RVLIS is being implemented in accordance with the requirements of NUREG-0737, Item II.F.2 "Instrumentation for Detection of Inadequate Core Cooling." Editorial changes are also included.

Date of issuance: July 13, 1987

Effective date: July 13, 1987

Amendment No.: 78

Facilities Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13347) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 13, 1987.

No significant hazards consideration comments received: No

Local Public ocument Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: July 22 and December 5, 1986

Brief description of amendment: The amendment changed certain administrative controls under which Fort St. Vrain is operated. The staff still has unresolved concerns regarding the proposed changes for the Plant Operations Review Committee.

Date of issuance: July 13, 1987.

Effective date: July 13, 1987.

Amendment No.: 56

Facility Operating License No. DPR-34: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 8, 1986 (51 FR 36103) and January 28, 1987 (52 FR 2889). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 13, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: March 13, 1987, as supplemented March 26, 1987

Brief description of amendment: This amendment reduces the maximum isolation times for the secondary

containment ventilation automatic isolation dampers.

Date of issuance: July 7, 1987
Effective date: July 7, 1987
Amendment No: 6
Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** (52 FR 13348) April 22, 1987 The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1987.

No significant hazards consideration comments received: No
Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: February 17, 1987, as supplemented by letter dated May 12, 1987. The May 12, 1987 letter furnished additional information which did not affect the staff's preliminary evaluation.
Brief description of amendment: The amendment revised Technical Specification Table 3.3.3-2 to reflect the replacement of the inverse time delay voltage relays with solid-state relays and to correct an editorial error.
Date of issuance: July 7, 1987
Effective date: July 7, 1987
Amendment No: 7
Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9583) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 7, 1987.

No significant hazards consideration comments received: No
Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: December 17, 1986
Brief description of amendment: This amendment changes Technical Specifications pertaining to administrative changes in the licensee's Engineering organization and the Electric Transmission and Distribution organization.
Date of issuance: July 10, 1987
Effective date: July 10, 1987
Amendment No.: 23
Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 11, 1987 (52 FR 4417) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1987.

No significant hazards consideration comments received: No.
Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: April 18 and June 24, 1986 and January 13, 1987.
Brief description of amendment: The amendment implements technical specifications for the independent testing of the undervoltage and shunt trip attachments of the reactor trip breakers, testing of the bypass breakers and independent testing of the control room manual switch contacts and wiring.
Date of issuance: July 8, 1987.
Effective date: July 8, 1987.
Amendment No.: 75.
Facility Operating License No. DPR-43: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 21, 1986 (51 FR 18699) and May 20, 1987 (52 FR 18990). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1987.

No significant hazards consideration comments received: No.
Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301

Dated at Bethesda, Maryland this 23rd day of July, 1987.

For the Nuclear Regulatory Commission
Steven A. Varga,
Director, Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation

[FR Doc. 87-17079 Filed 7-28-87; 8:45 am]
BILLING CODE 7590-01-D

[Docket No. 50-320]

Meeting of the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 GPU Nuclear Corporation

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI-2) will be meeting on August 12, 1987, from 7:00 p.m. to 10:00 a.m. at the Holiday Inn, 23 S. Second Street, Harrisburg, Pennsylvania. The meeting will be open to the public.

At this meeting, the Panel will receive a status report on the progress of defueling from the licensee, General Public Utilities Nuclear Corporation. Representatives of the NRC will summarize the recently issued final supplement to the Programmatic Environmental Impact Statement dealing with the licensee's plans for the disposal of the accident-generated water. Members of the public will be given the opportunity to address the Panel.

Further information on the meeting may be obtained from Dr. Michael T. Masnik Three Mile Island Cleanup Project Directorate, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-492-9445.

Dated July 24, 1987.

For the Nuclear Regulatory Commission.
John C. Hoyle,
Advisory Committee Management Officer.

[FR. Doc. 87-17251 Filed 7-28-87; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Information Collection Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, Chapter 35), this notice announces a request to extend a public information collection. Civil Service Retirement System retirees, survivor annuitants, and former spouses of retirees use one of the following forms to enroll, change enrollment or cancel enrollment in the Federal Employees' Health Benefits Program: OPM Form 2809 O/P, Health Benefits Registration Form (PEHBP); OPM Form 2809-Y, Health Benefits Enrollment Change Form for Civil Service Retirement System Annuitants; OPM Form 2809-EZ1, Enrollment Change Form and Brochure Request Form; and OPM Form 2809-EZ2, Enrollment Change Form. It is estimated that 285,500 individuals will respond annually for a total burden of 35,688 hours. For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632-7714.

DATE: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632–5472.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–17158 Filed 7–28–87; 8:45 am]

BILLING CODE 6325–01–M

Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, Chapter 35), this notice announces a collection of information from the public that has been submitted to OMB for clearance. It will be a blanket clearance to cover information collected from applicants, deans and references in the selection of Presidential Management Interns to comply Executive Order 12364 signed by President Reagan on May 24, 1982. We estimate 2350 respondents will expend 1400 burden hours annually to file these forms. For copies of this proposal, call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATE: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Office of Management and Budget, Room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Bates, (202) 632–0496.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–17159 Filed 7–28–87; 8:45 am]

BILLING CODE 6325–01–M

Proposed Extension of Standard Form 113–A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44 U.S. Code Chapter 35), this notice announces a request submitted to Office of Management and Budget (OMB) for renewal to continue to collect data on the Monthly Report of Federal Civilian Employment (SF 113–A). The information that is collected monthly provides a timely count of Government-wide employment, payroll, turnover, and employment ceiling-related data. Uses of the date include monthly reporting to OMB and publishing the bimonthly *Federal Civilian Workforce Statistics—Employment and Trends;* answering data requests from the Congress, White House, other Federal agencies, the media, and the public; providing ceiling-related employment counts required by OMB; and serving as benchmark data for quality control of the Central Personnel Data File. The number of responding agencies is 130. The report is submitted 12 times a year. The total number of person-hours required to prepare and transmit the reports annually is estimated at 3,120. For copies of the clearance package, call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATE: Comments on this proposal should be received within 30 working days from date of this publication.

ADDRESSES: Send or deliver comments to:

Mr. William C. Duffy, Agency Clearance Officer, U.S. Officer of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Mr. Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: May Eng, (202) 632–4920.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–17160 Filed 7–28–87; 8:45 am]

BILLING CODE 6325–01–M

Establishment of the Director's Task Force on the Combined Federal Campaign

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice; establishment of Task Force.

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) and advises of the establishment of the Director's Task Force on the Combined Federal Campaign. The Director of the Office of Personnel Management has determined that establishment of this Task Force is in the public interest.

Designation

Director's Task Force on the Combined Federal Campaign.

Purpose

The purpose of the Task Force will be to study the Combined Federal Campaign in order to provide the Director with a number of alternatives for the future of the Campaign.

FOR FURTHER INFORMATION CONTACT: The Office of General Counsel, OPM, is the organization within the agency sponsoring this Task Force. For additional information, contact Mr. Hugh Hewitt, General Counsel, OPM, on (202) 632–4632.

U.S. Office of Personnel Management.

Constance Horner,

Director, OPM.

[FR Doc. 87–17094 Filed 7–28–87; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–24714; File No. SR–Amex–87–19]

Self-Regulatory Organizations; Filing and Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to AUTO-EX Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 10, 1987, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has amended its procedures relating to its AUTO-EX system to permit automatic execution through the system of certain orders in competitively traded options.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

In December 1985, the Exchange implemented a pilot program for the automatic execution of certain options, confined initially to index options on the Major Market Index ("XMI"), which was approved by the Commission on a permanent basis in August 1986.[1] This automatic system—"AUTO-EX"—enables member firms to route public customers' market and marketable limit orders through the AUTOAMOS system to be executed against the best bid or offer at the time the order is entered. The AUTO-EX system ensures that customers' orders on the book retain priority over orders in the crowd.

In September 1986, the Exchange received Commission approval to extend the AUTO-EX pilot for the automatic execution of certain orders to institutional Index options ("XII") and in March 1987, the Exchange received Commission approval to expand the use of AUTO-EX in emergency situations involving high volume in particular equity options.[2]

The Exchange is proposing to extend further its AUTO–EX program on a case-by-case basis for a ninety-day pilot period to accommodate competitive trading situations, including trading in dually-traded equity options. Application of the Exchange's AUTO–EX system to such competitive situations will permit the Exchange to provide member firms and their customers with the execution efficiencies and limit order protection inherent in the AUTO–EX system to orders in dually-traded stock options, for example, that may be subject to execution through automatic execution systems on other exchanges. The Exchange believes that this expansion of its AUTO–EX system is necessary for it to remain competitive with other marketplaces and to attract sufficient order flow to enable the maintenance of viable markets.

(2) Basis

The proposed rule change is intended to facilitate the execution of orders in competitive options trading situations (*e.g.*, dually-traded equity options) through the Exchange's AUTO–EX system. The Amex believes the proposed rule change is therefore consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade and to protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition, but rather is aimed at enhancing competition between marketplaces.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The American Stock Exchange, Inc. has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act, because the Exchange would like to commence execution of orders immediately through AUTO–EX in order to address competitive options trading situations currently existing with respect to dually-listed stock options that may be subject to executions through automatic execution systems on other exchanges. The Exchange has stated that immediate implementation of these procedures will permit orders in competitive options trading situations to benefit from the execution and operational efficiencies of the AUTO–EX system, while maintaining the priority of orders on the limit order book.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder. The Commission believes that the proposed rule change will benefit public customers by affording them a more efficient means than was previously available at the Amex to execute small orders in a select group of equity options. In addition, the Commission notes that the operation of AUTO–EX in these options will not negatively effect public customer limit orders, because these orders will not be bypassed by the operation of AUTO–EX, but rather will receive the customary limit order protection afforded public customer orders placed on the book.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the Exchange previously has demonstrated the operational efficiencies of AUTO–EX for an extended period. In addition, the Commission expects that orders for individual options will similarly benefit from the efficiencies of the system, and orders on the limit order book will continue to receive appropriate protection. Moreover, the Commission previously has solicited comments on AUTO–EX on three separate occasions, one of which specifically covered its application to options on individual stocks, and has not received any adverse comment on AUTO–EX or its usage in options on individual securities. Finally, the Commission's approval is limited to a ninety day pilot period. If the Amex decides to seek to make the program permanent, the Commission expects that the Amex will file a separate rule filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[1] *See* SEC Release No. 34–22610, dated November 8, 1985, approving SR–Amex–85–29 (the pilot program), and SEC Release No. 23544, dated August 20, 1986, approving SR–Amex–86–16 on a permanent basis as to XMI options.

[2] *See* SEC Release No. 34–24228, dated March 25, 1987, approving SR–Amex–87–4.

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 19, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 17, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17237 Filed 7-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24720; File No. SR-CBOE-87-28]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 25, 1987 the Chicago Board Options Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

First, pursuant to Exchange Rule 2.22, the Exchange revises its trade match fees as follows. If year-to-date volume equals or exceeds 690,000 contracts per day at the end of any quarter during fiscal year 1988, trade match fees will be reduced by 1¢ for the following quarter only. Similarly, if year-to-date volume equals or exceeds 760,000 contracts per day at the end of any quarter during fiscal year 1988, trade match fees will be reduced by 2¢ for the following quarter only. If year-to-date volume reaches or exceeds 690,000 contracts at the end of the fourth quarter, no fee reductions will be made during the first quarter of fiscal year 1989.

Second, the Exchange will not charge Order Book Official fees for OEX [1] market and limit orders placed in the Exchange's public customer order book before the opening and executed during the opening. Matching customer orders in the book before opening rotation begins will facilitate the opening process and speed the completion of the OEX opening rotation.

As the foregoing rule change is concerned solely with Exchange fees, it has become effective immediately pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to file number SR-CBOE-87-28 and should be submitted by August 19, 1987.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

[1] OEX is the Exchange symbol for the Standard & Poor's 100 Index option contract.

Dated: July 20, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17238 Filed 7-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24724; File No. SR-MCC-87-4]

Self-Regulatory Organizations; Midwest Clearing Corp.; Procedures Manual for Midwest Clearing Corporation's (MCC) Automated Customer Account Transfer Service (ACATS)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 12, 1987 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is a copy of the Procedures Manual for Midwest Clearing Corporation's (MCC) Automated Customer Account Transfer Service (ACATS).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change consists of procedures and record layout specifications for MCC's proposed ACATS service. The procedures are intended to guide MCC Participants and service bureaus in comparing and settling account transfers.

The ACATS service is an input, comparison and settlement service for

customer account transfers between one brokerage firm and another. The service will allow MCC/MSTC Participants to compare and settle account transfers with MCC/MSTC Participants and participants of other clearing corporations providing an ACATS service.

The proposed rule change is consistent with section 17A of the Securities Exchange Act of 1934 in that it is designed to provide for the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by providing an efficient mechanism for the transfer of customer securities accounts with participants of registered clearing agencies.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that the proposed rule change will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to seciton 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 19, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 21, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–17239 Filed 7–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24718; File No. SR–NASD–87–8]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") filed on February 10, 1987, and amended on April 14, 1987, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to revise Schedule D to the NASD By-Laws, which governs the operation of the NASDAQ System. In addition to making certain organizational and editorial changes, the revision updates Schedule D to reflect current NASDAQ practice and procedure and incorporates certain material that now appears in the NASDAQ Symbol Directory and other NASD notices and publications.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 24579, June 10, 1987) and by publication in the **Federal Register** (52 FR 23117, June 17, 1987). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: July 20, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–17240 Filed 7–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24723; File No. SR–NYSE–87–21]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc.; Automated Bond System Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 14, 1987, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is revising subscriber fees for its Automated Bond System (ABS). These new fees will be charged commencing September 1, 1987.

Annual Fees

- Subscription (one terminal, one controller, one printer)..... $13,000
- Terminals 2 to 5 (each)..... 8,000
- Terminals 6 and above (each)..... 3,000
- Floor terminals (each)..... 4,000
- Additional Equipment
  - —Controllers (each)..... 2,000
  - —Printers (each)..... 2,500
  - —Telephone Lines [1] (each)..... 1,000
- Port Charges [2] (each)..... 3,000
- Service Calls (Per Terminal)..... 250

The Exchange has established a new Computer-to-Computer service—a direct computer interface to the NYSE computer facilities by ABS subscribers. The Exchange is proposing the following fees:

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[1] ABS subscribers located in the geographic area of New York City south of Chambers Street are charged for each telephone line in excess of the number of controllers they lease. All other subscribers pay communication costs directly to the communications carrier.

[2] This charge applies to ABS subscribers using their own terminals, and is levied per each activated NYSE controller port.

Annual Fee for Printer Services.....$5,000

Yearly order ranges [1]	Usage fees per order entered
1 to 25,000	0.30
25,001 to 50,000	.20
50,001 to 100,000	.10
100,001+	.05

[1] The usage fee and annual fee will be billed monthly on a prorated basis. To illustrate the proposed Computer-to-Computer usage fee, assume that an ABS subscriber has entered 50,500 orders into the system through the Computer-to-Computer service for the year. The firm would be billed at $.30 per order for the first 25,000 orders, $7,500; $.20 per order for the second 25,000 orders, $5,000; and $.10 per order for the remaining 500 orders, $50; a total charge of $12,550.

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 Section A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1977, the Exchange established pricing based upon ABS equipment provided to ABS subscribers. The basic service package consisted of two terminals, one controller, and one printer. A firm could also subscribe to additional terminals and printers.

The schedule was revised in 1981 to include a "mini service" (one terminal, one controller, and one printer) and to increase the base rates by 8% (see Schedule A).

Effective September 1, 1987, the Exchange is restructuring its annual ABS fees to provide new, more flexible subscription arrangements which recognize differences between firms using ABS through NYSE supplied hardware and firms using ABS through other hardware. The fee schedule for the new Computer-to-Computer service establishes prices commensurate with ABS subscriber use. Implementation of these fees will more reasonably allocate ABS subscriber fees.

The statutory basis under the Securities Exchange Act of 1934 (the "Act") is section 6(b)(4) and its requirement that a national securities exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. The 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 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number SR–NYSE–87–21 and should be submitted by August 19, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

July 20, 1987.

Fixed Income Markets

ABS Pricing Schedule

Annual fees	Yearly	
	1977	Current [1]
• Mini-Service 1 Terminal Display 1 Controller 1 Printer	$—	$13,000
• Basic Service 2 Terminal Displays 1 Controllers 1 Printer	20,000	21,600
• Terminals 3 & 4 (each)	7,500	8,100
• Terminals 5 & 6 (each)	5,000	5,400
• Terminals 7 & Above (each)	3,500	3,780
• Floor Terminals (each)	3,500	3,780
• Additional Printers	2,100	2,270
• Relocations (Per Terminal)	450	250

[1] As amended in 1981.

[FR Doc. 87–17241 Filed 7–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24725; File No. SR–OCC–86–10]

Self-Regulatory Organizations; Options Clearing Corp. Order Approving Proposed Rule Change to Facilitate Direct Membership of Canadian Securities Firms

On May 9, 1986, the Options Clearing Corporation ("OCC"), filed a proposed rule change (File No. SR–OCC–86–10) under section 19(b) of the Securities Exchange Act of 1934 ("Act"). The proposal generally would allow qualifying non-U.S. clearing members [1] to elect a special membership status in OCC enabling them to participate directly in OCC so long as they comply with the financial reporting and

[1] The term, "Non-U.S. Clearing Member," ("NCM") is defined in OCC By-Law Article I, Section 1 (rrr). Although OCC currently allows foreign institutions to become OCC members, those members must comply with U.S. financial standards (*e.g.*, the Commission's Uniform Net Capital Rule and financial reporting requirements; Generally Accepted Auditing Standards; and Generally Accepted Accounting Principles).

financial responsibility standards of their home country. The proposal opens the new special membership status only to Canadian securities firms at this time. OCC amended the proposed rule change on July 2, 1986. The Commission published notice of the proposal, as amended, in the Federal Register on August 7, 1986.[2] No public comments were received. For the reasons discussed below, the Commission has determined to approve the proposed rule change.

I. Description of the Proposal

The proposal would create a new type of membership status at OCC for Canadian firms.[3] the proposal also would amend OCC Rules to authorize OCC to establish special financial standards and reporting requirements for Canadian members. As discussed below, the proposal would add Interpretations and Policies ("I&Ps") to OCC's rules that would set out financial standards and reporting requirements for exempt Canadian members. Those requirements include: minimum net capital requirements; financial reports, audited generally in accordance with Canadian accounting standards; and notice of changes in financial, operational or regulatory condition.

1. Minimum Capital Requirements

The proposal authorizes OCC to specify special initial and continuous minimum ratios of net capital to aggregate indebtedness for Canadian members.[4] The proposal would implement that general authority by modifying OCC's financial requirements for new and continuing Canadian members. A Canadian firm that has conducted securities business for more than 12 months before its admission into OCC membership initial "net free capital"[5] of $150,000 (U.S.) and an amount of additional capital as specified by OCC's membership committee. The Canadian member, however, generally would not be required to maintain net free capital greater than 10% of its "adjusted liabilities."[6] A Canadian firm that has conducted business for less than 12 months prior to admission into OCC would be required to maintain an initial net free capital of not less than 10% of its adjusted liabilities for the greater of three months after its admission into OCC or 12 months after it began conducting business. After this initial period, each Canadian member would be required to maintain the amount of minimum net free capital specified for equivalent-sized members of the Investment Dealers Association of Canada ("IDAC") plus and additional amount required by OCC.[7] Each Canadian member would be required to compute its net free capital and adjusted liabilities daily.[8]

2. Financial Reports

OCC's proposal would authorize OCC to adjust its financial reporting and audit requirements for Canadian members.[9] Under new OCC Rules, those members would be required to file with OCC such financial reports at such times as OCC may specify. OCC also at any time could require them to file financial reports on a more frequent basis, or to file such other reports or financial statements containing additional information in such form or detail as may be prescribed by OCC.

Specifically, the proposal requires each Canadian member to file with OCC a copy of its Capital Report when it files the report with Canadian regulatory authorities.[10] The fiscal year-end Capital Report filed with OCC must be audited by an independent public accounting firm in accordance with Canadian generally accepted auditing standards and, in addition, must be accompanied by a supplemental report prepared by the auditor on any material inadequacies of the Canadian member. The proposal also would require each Canadian member to file with OCC a copy of its Joint Industry Monthly Financial Report ("JIMF Report")[11] within 30 calendar days of the end of the month (except with respect to those two months for which it has filed a Capital Report).

3. Special Surveillance Requirements

The proposed rule change would tailor OCC's "early warning system" to the modified financial requirements of Canadian members.[12] Under new OCC Rule 303(b), a Canadian member would be required to inform OCC promptly (and always before 3:00 p.m. Central Time of the next business day) when it has: (1) Violated the financial responsibility or customer property protection rules or regulations of its non-U.S. regulatory organization (*e.g.* IDAC or Ontario Securities Commission requiremnts);[13] (2) received a notice

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[2] Securities Exchange Act Release No. 23487 (July 31, 1986), 51 FR 28466.

[3] Specifically, Article I, section 1(rrr) of OCC's By-Laws would be amended to expand the definition of "Non-U.S. Securities Firm" to include an exempt non-U.S. clearing member. It also would add the term "Canadian Clearing Member" and define it as an NCM with its principal place of business in Canada and formed and operated under the laws of Canada or a province thereof.

OCC has indicated that it will consider expanding the availability of exempt non-U.S. clearing member status to other non-U.S. securities firms in the future. Such an expansion would require OCC to file a proposed rule change with the Commission under section 19(b) of the Act.

[4] OCC Rule 301 requires each "regular-way" (*i.e.*, U.S. and non-exempt non-U.S.) OCC clearing member to meet several financial requirements. The clearing member must have an initial "net capital" or not less than $150,000 and 12.5% of its "aggregate indebtedness." Moreover, the aggregate principal amount of the clearing member's subordination agreements other than those that do not qualify as equity capital under Rule 15c3-1(d) under the Act [17 CFR 240.15c3-1(d)] must not initially exceed 70% of the clearing member's debt-equity ratio. Finally, if the clearing member operates under alternative net capital requirements, then its initial net capital must total at least 5% of its aggregate debit items. *See* Rule 15c3-1 for definitions of the terms "net capital" and "aggregate indebtedness" and Exhibit A to Rule 15c3-3(a) under the Act [17 CFR 240.15c3-2(a)] for a definition of the term "aggregate debit items."

[5] "Net free capital" is a term of art in the Canadian Broker-dealer regulatory scheme. Its components are listed in the Joint Regulatory Financial Questionnaire and Report ("JRFQ Report" or "Capital Report") [*i.e.*, total active assets, amounts receivable on demand under a stand-by subordinated loan agreement, noncurrent debt under mortgages on real estate owned by the firm and liquid capital]. As discussed below, Canadian broker-dealers must file Capital Reports with Canadian regulatory authorities twice a year.

[6] "Adjusted liabilities" also is a Canadian term of art, and its components, which include outstanding purchase commitments and total liabilities, are set out in the Capital Report.

[7] IDAC in a non-governmental association consisting of most of the major Canadian securities firms. IDAC's objectives include self-regulation of members and fostering a favorable environment for saving and investing. *See* IDAC Constitution, Section 2.

[8] Section 100.2 of IDAC's By-Laws requires IDAC members to maintain at least $75,000 (Canadian) of net free capital, plus a percentage of adjusted liabilities as determined by a sliding scale. As the size of the broker-dealer's adjusted liabilities increases, the ratio of required net free capital to adjusted liabilities decreases. Under the formula, large broker-dealers often may maintain an amount of net free capital under the 6.66% requirement for U.S. broker-dealers. Canadian members would not be allowed to maintain a percentage of net free capital lower than 5% of adjusted liabilities.

[9] OCC rules generally required all OCC clearing members (except Canadian members) to file with OCC monthly and quarterly financial reports required pursuant to Rule 17a-5 under the Act (17 CFR 240.17a-5) and a copy of its annual report prepared in accordance with Rule 17a-5. Clearing members exempt from Rule 17a-5 under paragraph (d) of that Rule also must prepare and file with OCC an annual report of financial condition, prepared in accordance with generally accepted U.S. auditing standards by a firm of independent public accountants satisfactory to OCC.

[10] The JRFQ Report is filed twice a year with Canadian financial regulatory authorities, at the end of the fiscal year and at the end of another month during the year.

[11] The JIMF Report is a monthly financial report similar to the Commission's FOCUS report and filed with Canadian regulatory authorities.

[12] This system is designed to provide OCC with early warning of clearing members experiencing financial or operational distress. *See* OCC Rule 303.

[13] In addition, under proposed OCC Rule 1102(b), any NCM also would need to notify OCC

Continued

from that organization (a) alleging a violation of those rules or regulations, (b) informing the firm to take corrective action without which those rules or regulations may be violated, or (c) informing the firm that it has triggered an early warning parameter in those rules or regulations; or (3) experienced another adverse event as OCC may specify. In addition, every Canadian member must notify OCC whenever its net free capital falls below the greater of $150,000 (U.S.) [14] or 120% of the amount of net free capital required under IDAC requirements (together, the "Minimum Requirement").

4. Business Restrictions

The proposal authorizes OCC to restrict the business of Canadian members in certain ways. First, the proposal would extend OCC's general authority to restrict members' activities to cover Canadian members.[15] The proposal also would enable OCC to restrict the activity of a Canadian member when OCC is given notice of any of the events specified in the proposal. Second, proposed OCC Rule 304(c) [16] would authorize OCC to specify modified restrictions on distributions of funds for a Canadian member. The proposal also would enable OCC to prohibit the member from withdrawing funds from a subordinated loan account [17] if the withdrawal would cause its net free capital to fall below the Minimum Requirement. OCC also would restrict the member from withdrawing funds from a partnership account if the account is included in net free capital and would prohibit the member from paying dividends or effecting distributions to stockholders, partners or employees if such withdrawal or payment would cause net free capital to fall below the Minimum Requirement.

II. OCC's Rationale for the Proposal

According to OCC, the proposal is designed to permit non-U.S. securities firms to participate in OCC directly so long as they comply with their home country's financial reporting and financial responsibility standards, provided that those standards yield substantially equivalent protection for investors and other market participants. OCC believes that the proposal should facilitate internationalization of the U.S. securities markets.

OCC in particular intends the proposal to facilitate direct OCC membership of Canadian securities firms.[18] OCC states that several Canadian firms have expressed interest in joining OCC, but would not do so because OCC would require them, like all other clearing members, to prepare a complete set of financial reports in accordance with U.S. accounting and auditing standards and Commission requirements, in addition to the comprehensive financial reports that they already prepare for Canadian regulatory authorities. OCC believes that those Canadian standards are sufficient to enable Canadian securities firms to become clearing members when combined with other aspects of the proposal and the features of OCC's safeguarding scheme. OCC believes that the data contained in the JIMF and JRFQ Reports,[19] its ability to convert that data to U.S. formats, and its authority to obtain additional data will be sufficient to monitor Canadian member compliance with OCC financial requirements.

III. Discussion

For the reasons discussed below, the Commission is approving OCC's proposal. The Commission believes that OCC's proposal is consistent with section 17A of the Act in that it should promote the prompt and accurate clearance and settlement of options transactions while safeguarding funds and securities in OCC's custody and control, or for which it is responsible.

OCC's proposal is novel. It marks the first time that a registered clearing agency has proposed to allow non-U.S. securities firms to participate directly in the National Clearance and Settlement System ("National System") under financial reporting and responsibility standards of their home country. As noted above, the proposal initially applies only to Canadian firms. Currently, non-U.S. firms can become direct OCC members, but only if they comply with U.S. financial reporting and financial responsibility standards.

To ensure that OCC receives prompt, accurate and complete information concerning Canadian members, OCC has entered into information sharing arrangements with the Toronto Stock Exchange ("TSE") and IDAC. Under those arrangements, OCC requires each Canadian member that is also a TSE or IDAC member to authorize the TSE or IDAC to communicate with OCC and to supply any necessary data concerning the member to OCC.[20] This authorization will be required of each Canadian member before it begins active operation as a participant in OCC. In addition, the TSE and IDAC also have agreed to allow OCC to make available to the Commission any relevant data regarding financial or operational difficulties of the Canadian member.[21] The Commission believes that this arrangement should provide OCC with an independent source of information concerning the financial and operational condition of Canadian members and the capability to verify essential financial and other information reported by it to OCC. The Commission also believes that the proposal represents another important step toward cooperation among international securities regulators.[22]

Even though the proposal allows Canadian members to operate pursuant to Canadian financial responsibility and recordkeeping requirements (while requiring other clearing members to

immediately if it is suspended or expelled from membership by its non-U.S. regulatory organization or any securities exchange.

[14] OCC will use the best interbank foreign exchange bid, adjusted daily, in converting Canadian dollars to U.S. dollars.

[15] To evaluate whether a Canadian member is complying with OCC's financial requirements and whether to take protective action under OCC Rule 305, OCC, under new OCC Rule 310(c), could determine to convert its financial information into a form consistent with the accounting concepts and principles of Rule 15c3–1. OCC has developed computer programs to convert Canadian reports to the Rule 15c3–1 format, *i.e.*, FOCUS report format.

[16] OCC Rule 304 restricts clearing members from making certain distributions. A clearing member may not, unless it has prior written authorization from OCC, withdraw funds from any subordinated loan account if that withdrawal would trigger OCC's early warning system under OCC Rule 303. Clearing members also are prohibited from withdrawing funds from certain partnership accounts and providing a dividend or distribution to a partner, stockholder or employee if that action causes the net capital of the clearing member to fall below $150,000 or if it would be inconsistent with Rule 15c3–1.

[17] OCC uses the term "subordinated loan" as it is used in Appendix D of Rule 15c3–1.

[18] Canadian firms registered as U.S. broker-dealers or required to be registered as such will not be eligible for the special OCC membership status.

[19] OCC believes that it has sufficient expertise to evaluate JIMF and JRFQ Reports and to monitor changes in Canadian requirements concerning the format and content of those Reports. OCC has agreed to notify the Commission of any material changes in the information currently available through the JIMF and JRFQ Reports.

[20] *See, e.g.*, letter from Michael D. Weiner, Vice President, OCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, dated April 30, 1987.

[21] *See* letter from Andrew G. Kniewasser, President, IDAC, to Michael D. Weiner, Vice President/Deputy General Counsel, OCC, dated April 2, 1987; and letter from Keith E. Boast, Vice President, TSE, to Michael D. Weiner, Vice President/Deputy General Counsel, OCC, dated February 12, 1987.

[22] OCC represents that it is close to reaching a similar agreement with the Montreal Stock Exchange and that it is seeking an agreement with the Vancouver Stock Exchange. OCC represents that it will not allow any Canadian firm to participate unless such an agreement is in place with a firm's designated Canadian regulatory authority.

operate pursuant to U.S. net capital and recordkeeping requirements), the Commission believes that any difference in treatment, on balance, is consistent with the Act. The Act requires a registered clearing agency to balance several competing interests. First, under section 17A(b)(3)(B), a clearing agency must provide National System services to a broad community of participants. Second, under section 17A(b)(3)(F) of the Act, a clearing agency may not create rules that permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency. Finally, section 17A(b)(4) of the Act allows the clearing agency to limit or deny admission, under appropriate standards concerning, for example, financial responsibility, operational capability standards, experience and competence.[23]

The Commission believes that OCC's proposal meets these statutory objectives while at the same time recognizing the diverse interests of the evolving international securities markets. Although Canadian members would operate under standards that are not identical to other clearing members, those standards are substantially similar to the requirements for domestic clearing members.[24] Moreover, Canadian members would be subject to other increased responsibilities. For example, Canadian members would have increased reporting duties under OCC's "early warning system."[25]

OCC's rules also authorize OCC to raise a specific clearing member's margin deposit requirements[26] and clearing fund contribution requirements[27] in the event that OCC determines that the clearing member's financial situation warrants such action.

The Commission also believes that the proposal's limited approach to international expansion is appropriate. By limiting exempt non-U.S. clearing members status to qualifying Canadian securities firms, OCC, in effect, will be creating a limited pilot program to gain experience with the new membership status and adjusted safeguards.[28] This experience should help to ensure that OCC will continue to satisfy its obligations under the Act if it decides to propose expanding the availability of exempt non-U.S. clearing member status to other securities firms.

The Commission notes that OCC's proposal defines a Canadian clearing member to mean an OCC member formed and operating under the laws of Canada, or a province thereof, with its principal place of business in Canada. The Commission and OCC interpret that language to mean a firm generally doing business in Canada and using OCC membership to further legitimate Canadian business activity. Accordingly, the proposal would be available for firms or activity not primarily Canadian in nature.

Finally, the Commission believes that the proposal will promote the prompt and accurate clearance and settlement of options transactions by Canadian securities firms.[29] As discussed more fully in Release No. 22123, by facilitating direct OCC participation by Canadian securities firms, the proposal should reduce the possibilities of transmission errors, eliminate fees for intermediary services and increase the speed and efficiency of effecting, clearing and settling options transactions.

IV. Conclusion

For the foregoing reasons, the Commission believes that OCC's proposal (File No. SR–OCC–86–10) is consistent with section 17A of the Act and the rules and regulations thereunder in that it is designed to promote the prompt and accurate clearance and settlement of options transactions and the safeguarding of funds and options related thereto.

It is therefore ordered, pursuant to section 19(b) of the Act, that OCC's proposed rule change (File No. SR–OCC–86–10) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 21, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–17242 Filed 7–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24722; File No. SR-Phlx-87–20]

Self-Regulatory Organizations; Proposed Rule Change By the Philadelphia Stock Exchange, Inc.; Relating to the Creation of a Utility Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 10, 1987 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange ("PHLX" or "Exchange") hereby proposes to trade options on the Utility Index. These options will be traded pursuant to current PHLA rules governing the trading of index options. (See particularly, FHLA Rules 1000A through 1103A, and generally, PHLX Rules 1000 through 1070.)

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[23] OCC acts as a creditor to its participants and interposes itself between members on each trade as part of its services. Conditions to admission allow OCC to assure itself that members will meet their obligations and help protect OCC from financial risk.

[24] Other registered clearing agencies use separate standards for broker-dealer members and bank members.

[25] Canadian members must perform daily computations of net free capital and adjusted liabilities and report to OCC promptly if net free capital falls below certain minimum levels. OCC's proposal adjusts OCC's "early warning system" to trigger on the occurrence of this and a number of other events under Canadian regulatory schemes. In addition, OCC has expanded its authority over certain business decisions of Canadian members that could impair OCC's financial protection. For example, OCC can restrict distribution of certain funds and can prohibit certain payments by Canadian members. To facilitate OCC's analysis of financial data, OCC will be able to choose to convert that information into the form required under U.S. law and practice. Moreover, OCC, as discussed above, has entered into information sharing arrangements with Canadian regulatory authorities to allow it to verify independently essential financial and other information concerning a Canadian member.

[26] *See* OCC Rule 609.

[27] *See* OCC Rule 1001.

[28] In this regard, the Commission notes that it has a longstanding history of cooperative regulatory initiatives with the Canadian regulatory authorities. *See, e.g.*, letter from Ermanno Pascutto, Director, OSC, to Richard G. Ketchum, Director, Division of Market Regulation, and Gary Lynch, Director, Division of Enforcement, dated September 24, 1985; letter from Richard G. Ketchum, Director, Division of Market Regulation, and Gary Lynch, Director, Division of Enforcement, to Ermanno Pascutto, Director, OSC, dated September 24, 1985. Accordingly, the Commission's decision to approve this proposal is based, in part, on its confidence—in view of the history of cooperation and similarity of regulatory approach—that the Canadian regulatory structures are substantially equivalent to the otherwise applicable U.S. regulatory structures and that OCC's information sharing arrangements will be respected.

[29] *See* Securities Exchange Act Release No. 22123 (June 6, 1985), 50 FR 24853 (June 13, 1985) for a brief description of the less efficient process that non-U.S. securities firms must use a clear and settle their U.S. options transactions.

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 or and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish a PHLX Utility Index comprising 20 common stocks of listed companies that are primarily involved in electric power generation (a list of the specific stocks, together with their price, market value and weight in the index as of June 4, 1987, is attached as *Exhibit A).* These stocks include some of the largest and most widely-held of the utility stocks; all currently possess significant dividend yields.[1]

The proposed index's contract specifications are as follows:

Ticker Symbol: UTY.

Underlying Index: The Utility Index is a capitalization-weighted index composed of 20 of the most highly capitalized common stock issues of listed American electric utility companies.

To compute the Utility Index the following formula is used:

$$\frac{MV(1)+MV(2)+MV(3)\ldots MV(N)}{BMV} \times 100\text{-Index Value}$$

where:

MV = (Price X Shares Outstanding) for the instant computation, summed for all issues.

BMV = Summation (Closing Price X Shares Outstanding) for the day prior to the start of the Index calculation.

The current market value of each component issue is multiplied by the number of outstanding shares. The resulting market values are added to determine the current aggregate market value of the issues in the Index. To compute the current Index value, the aggregate market value is divided by the base market value and multiplied by 100. The value of the Utility Index was set to equal 200 on May 1, 1987.

To account for changes in capitalization of any of the component issues resulting from mergers, acquisitions, listings, substitutions, etc., the base market value will be adjusted periodically. The following formula is used to make such adjustments:

$$NBMV = \frac{OBMV \times NMV}{OMV}$$

where:

NBMV = new base market value.
OBMV = old base market value.
NMV = new market value.
OMV = old market value.

Adjustments in value of the Index which are necessitated by the addition and/or deletion of an issue from the Index are made by adding and/or subtracting the market value (price × shares outstanding) of the relevant issue(s).

The Utility Index value will be updated dynamically at least every minute during the trading day. The PHLX has retained Bridge Data, Inc. to compute and do all necessary maintenance of the Index. Pursuant to PHLX Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported over the Consolidated Last Reporting System and the facilities of the Options Price Reporting Authoriy. The Index value will also be available on broker-dealer interrogation devices to subscribers of the option information.

Unit of Trading: Each options contracts will represent $100, the Index multiplier, times the Index value. For example, and Index value of 200 will result in a dollar contract value of $20,000 ($100 × 200).

Exercise Price: Exercise price will be set at five point intervals in terms of the current value of the Index. Additional exercise prices will be added in accordance with PHLX Rule 1012(a)(iii).

Aggregate Exercise Price: The aggregate exercise price is found by multiplying the Index multiplier ($100) by the exercise price.

Expiration Cycles: The PHLX will trade consecutive and cycle month series pursuant to PHLX Rule 1101A.

Premium Quotations: Premiums will be expressed in terms of dollars and fractions of dollars pursuant to PHLX Rule 1033A. For example, a bid or offer of 1½ will represent a premium per options contract or $150 (1½ × 100).

Position and Exercise Limits: The PHLX will employ position and exercise limits pursuant to PHLX Rule 1001A(b)(i) and 1002A, respectively.

Replacement of Stocks in Index: If there has been any material and substantial change in the character of any stock in the Index caused by delisting, merger, acquisition or otherwise, the Exchange will take appropriate steps to delete this stock from the Index and substitute another stock which posesses characteristics similar to the original character of the deleted stock.

As the PHLX will only trade a European-style option contract on this Index, the PHLX also proposes and amendment to PHLX Rule 1006A (additions are italicized):

Rule 1006A Other Restrictions and Options Transactions and Exercises

With respect to index options, restrictions on exercise may be in effect until the opening of business on the last trading day before the expiration date. *With respect to the Utility Index, the Exchange shall only offer a European option on said index for which restrictions on exercise will be in effect until the last trading day prior to expiration.* With respect to Value Line index European option contracts, restrictions on exercise will be in effect until the last trading day prior to expiration.

* * * * *

The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934, which provides in part that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practice, to facilitate transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[1] The Utility Index will be designated as a narrow-based index.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited not received. The proposed rule change was discussed with, and approved by, the Options and Executive Committees of the PHLX.

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 submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-Phlx-87-20 and should be submitted by August 19, 1987.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 20, 1987.

Shirley E. Hollis,

Assistant Secretary.

Exhibit A

The Philadelphia Stock Exchanges Utility Index Composition

Security symbol	Company name	Market value ($1,000's)	Percent of index value
AEP	American Electric Power Co	$5,225,445	6.16
CX	Centerior Energy Co	2,191,806	2.58
CWE	Commonwealth Edison Company	6,825,225	8.04
ED	Consolidated Edison of N.Y	5,138,679	6.06
DTE	Detriot Edison Company	2,493,390	2.94
D	Dominion Resources Inc	3,976,385	4.69
DUK	Duke Power Company	4,403,635	5.19
FPL	FPL Group Inc	3,955,464	4.66
HOU	Houston Industries Inc	3,740,385	4.41
NMK	Niagara Mohawk Power Corp	1,986,578	2.34
NU	Notheast Utilities	2,499,387	2.95
OEC	Ohio Edison Company	3,078,013	3.63
PCG	Pacific Gas and Electric Co	7,571,592	8.92
PPW	Pacificorp	2,426,347	2.86
PE	Philadelphia Electric	3,839,447	4.52
PEG	Public Service Entrpse. Group	5,118,395	6.03
SCE	Southern Calif. Edison Co	6,886,003	8.11
SO	Southern Company	6,555,019	7.72
TXU	Texas Utilities Company	4,497,831	5.30
UEP	Union Electirc Company	2,450,976	2.89
Total		$84,860,002	100

[FR Doc. 87-17243 Filed 7-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15895; 812-6799]

Central Bank for Cooperatives and Certain District Banks for Cooperatives; Notice of Application

July 27, 1987

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicants: Central Bank for Cooperatives and certain District Banks for Cooperatives, i.e., Columbia Bank for Cooperatives, Jackson Bank for Cooperatives, Louisville Bank for Cooperatives, St. Louis Bank for cooperatives and Wichita Bank for Cooperatives.

Relevant 1940 Act Sessions: Exemption requested under Section 6(c) and 6(e) from all provisions of the 1940 Act, other than Sections 26 (with certain exceptions), 36, 37 and (to the extent necessary to implement the foregoing sections) 38 through 53 thereof.

Summary of Application: Applicants seek an order exempting each trust ("Trust") established and to be established by the Applicants, each Trust to hold a note guaranteed by the Rural Electrification Administration evidencing loans used to refinance borrowings from the Federal Financing Bank, in connection with the issuance of certificates by the Trust to Applicants and their subsequent resale to the public by Applicants.

Filing Date: The application was filed on July 21, 1987 and amended on July 24, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the 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 12, 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, N.W., Washington, D.C. 20549. Applicants, c/o Carl F. Lyon of Mudge Rose Guthrie Alexander & Ferdon, 180 Maiden Lane, New York, NY 10038.

FOR FURTHER INFORMATION CONTACT: Fran Pollack, Staff Attorney (202) 272-3024 or Karen L. Skidmore, Special Counsel (202) 272-3023, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is availabe for a fee from either the SEC's Public Reference Branch in person or the

SEC's commercial copier, (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations:

1. Each of the Applicants is a federally chartered instrumentality of the United States established pursuant to Sections 2 and 30 of the Farm Credit Act of 1933, as amended, as part of the Farm Credit System (the "System"). The System is a network of borrower-owned cooperatives organized to provide loans to farmers and their marketing and supply cooperatives.

The System consists of twelve Farm Credit Districts that cover the continental United States as well as Alaska, Hawaii, and Puerto Rico. Each district has a Federal land bank, a Federal intermediate credit bank, and a bank for cooperatives. In addition, a thirteenth bank for cooperatives, the Central Bank for Cooperatives, located in Denver, Colorado, participates with other banks for cooperatives in loans that exceed district lending limits. The Applicants make loans to agricultural, aquatic, and rural utility cooperatives and provide financial services to cooperatives engaged in international trade. Such loans supplement the loan programs of the Rural Electrification Administration ("REA") of the United States Department of Agriculture.

The System is regulated by the Farm Credit Administration, an independent regulatory agency of the United States Government, which was reorganized and strenghtened as recently as 1985 when the Farm Credit Amendments Act of 1985, 99 Stat. 1578, P.L. 99–205 was enacted. As government corporations, the Applicants are subject to the Government Corporation Control Act. See 31 U.S.C. 9101 *et seq.*

2. In order to ease financial burdens on certain cooperatives by permitting them to take advantage of lower interest rates. Congress in October 1986 passed legislation (the "New Bill") amending the Rural Electrification Act (the "RE Act") to permit these cooperatives to prepay existing borrowings (the "FFB Loans") from the Federal Financing Bank of the United States Treasury ("FFB"), without repayment penalty or fees, through the issuance of REA-guaranteed notes to private lenders. REA has promulgated regulations implementing this legislation (the "Regulations"), which directs REA to formulate eligibility criteria specifying entities that could be lenders and ensuring that at least $2.0175 billion of such refinancings occur by September 30, 1987

Because of concerns that issuance by the cooperatives of debt guaranteed by REA directly to the public would adversely affect the Treasury's own funding operations, the Regulations limit the number of separate notes that any cooperative may issue in a particular refinancing, restrict assignment of the REA guarantee, and require that each noteholder (i) be subject to credit examination and supervision by Federal or state authorities and satisfy applicable regulatory requirements for licensing, lending and loan requirements, (ii) have a minimum net worth or other credit support in the amount of $50 million, or (iii) be a trust administered by a person in either of the foregoing categories.

3. Applicants, in conjunction with Smith Barney, Harris Upham & Co. Incorporated and Manufacturers Hanover Trust Company, have formulated a program consistent with the New Bill and the Regulations which they believe will permit rural electric cooperatives to refinance their FFB Loans in accordance with the New Bill and the Regulations at competitive rates reflecting the smallest possible spread over benchmark Treasury obligations. REA and Applicants have agreed upon the basic structure of the refinancing transactions and Applicants anticipate that REA will approve that structure. Although REA is currently reviewing certain of the terms of the refinancings for both the Applicants and other lenders, the final resolution of which may not take place until the actual closing of the refinancing, Applicants do not anticipate any change in the basic structure or other terms which could require additions to or modifications of the application. Such approval will be evidenced only by the execution of the REA guarantee of a Private Note and representatives of REA have advised Applicants that they will promptly review the necessary documents and expect to be able to issue the REA guarantee on a timely basis.

As of April, 1987, applications from twenty cooperatives had been received by REA and REA has approved seven cooperatives. Of these, Arizona Electric Power Cooperative has chosen Applicants' program to refinance its entire FFR debt while Cajun Electric Power Cooperative has chosen Applicants' program for one-half of its FFB debt. All representations and conditions in the application will apply to transactions under this structure involving any rural electric cooperative which refinances its FFB Loans under the program described in the application.

4. Under Applicant' program, one or more Trusts will be established by an Applicant for each cooperative intending to prepay FFB loans (A "Cooperative"). The trustee of each Trust (the "Trustee") will be a commercial bank having capital and surplus of at least $50,000,000. An Applicant will make loans (the "Private Loans") to the Cooperative, the proceeds of which will immediately be used to prepay the Cooperative's FFB Loans being refinanced. Such Applicant will direct the Cooperative to issue each note evidencing a Private Loan (a "Private Note") to a separate Trust, which will issue to that Applicant certificates representing the entire beneficial interest in the trust (the "Certificates"). The Trustee will be the "noteholder" for the purpose of the Regulations. Applicant will qualify the Trust Agreements under the Trust Indenture Act of 1939.

5. To the extent an Applicant holds the Certificates, the Private Note will bear interest at a variable rate reflecting Applicant's cost of funding the loan. The Applicants intend to resell these Certificates either contemporanously with the making of the Private Loan or anytime thereafter, in public offerings or in private placements, at which time the rates on the associated Private Note will be reset to equal the fixed rate on the Certificates, increased by an amount equal to the servicing fee and expense reimbursement referred to below. The Certificate rate will be fixed as the lowest rate acceptable to the marketplace that would permit the Certificates to be resold by an Applicant at par. Scheduled payments on the Private Notes will thus at all times be sufficient to satisfy the scheduled payments on the Certificates plus any amounts of servicing fees or other costs payable to the servicer. Applicants would expect to resell the Certificates promptly, unless they could not be sold bearing rates within the interest rate ceiling described below or if it is believed that long-term rates would improve in the future and it is desired to delay fixing the rate until that time.

6. In order to insure that the Cooperative (and REA as its creditor) will derive significant benefit from the refinancing of FFB Loans, the Regulations require that the interest rate on the Private Notes always be at least 50 basis points lower than the weighted average interest rate borne by the FFB Loans that were repaid at the time of repayment. Since there is no assurance that an Applicant will be able to obtain funding enabling it to carry or to resell the Certificates within this cap, each Applicant in acquiring the Certificates subject to this limitation is assuming an exposure to interest rate fluctuations which benefits the Cooperative and REA.

7. With the exception discussed below, each Trust's sole investment activity will consist of receiving the Private Note and issuing the Certificates

on the day of its formation and thereafter collecting payments on the Note. The assets of each Trust will consist of a single Private Note evidencing one Private Loan. In order to obtain the best rates by matching maturities to particular market segments, separate Certificates having sequential maturities will be offered through separate Trusts (i.e., Trust would receive a Private Note payable by the Cooperative in installments in years 6–10, a second would receive a Private Note payable by that Cooperative in years 11–16, etc). The Trustee will not be authorized to modify the right to receive payments on the Certificates or take any action that would reduce the principal amount or interest rate on the Private Note without consent of the Certificateholders. No Trust would ever issue any security other than a single class of Certificates or hold more than a single Private Note or, except for the incidental temporary investment pending distribution to Certificateholders of payments received on its Private Note described below, engage in any investment activity following its formation. Defaults with respect to one Private Note would not permit acceleration by the holder of any other Private Note. The Trust would not acquire any assets in substitution for the Private Note, or sell the Private Note except in connection with the repayment of the Certifciates in full and the termination of the Trust (which will occur when the Private Note and thus the Certificates have been paid off).

8. REA will endorse on each Private Note a guarantee (the "REA Guarantee") of the timely payment of principal and interest on such Private Note. The REA Act provides that the REA Guarantee is a full faith and credit obligation of the United States. REA will be required to pay the Trust the amount of any principal and interest not paid when due on a Private Note within five business days of notice from the servicer of such default. Although the Private Note will be secured by a mortgage on all the Cooperative's assets (the "REA Mortgage"), all rights under the mortgage with respect to the Private Note will be held by REA and will not inure to the benefit of any Applicant, the Trust or any holder of Certificates.

9. An Applicant will contract with REA and each Trust to service the Private Loan in a manner complying with the REA Act and the Regulations. An Applicant, as servicer, will handle the billing of Private Loan payments from the Cooperative and will notify REA promptly of any default under the Private Loan and of adverse developments affecting the Cooperative, but payments on the Private Note will be made directly to the Trustee and not to an Applicant. An Applicant, as servicer, will prepare for distribution to Certificateholders regular semiannual reports concerning distributions on the Certificates and its fees, as well as tax information required by Certificateholders. No less often than annually, an independent public accountant will audit the books and records of each Trust. Upon completion, copies of the auditor's reports will be provided to the Trustee.

10. An Applicant, as servicer, will be compensated out of payments on the Private Note in excess of the scheduled payments to be distributed to Certificateholders. It is presently estimated that the regular servicing fee (out of which Applicant will pay the Trustee's fees and expenses) will total not more than approximately 10 basis points annually with respect to the principal amount of the Private Note. An Applicant, as servicer, may also receive directly from the Cooperative or reimbursement for costs incurred by it in connection with the offering of the Certificates and enforcement of the Private Note and REA Guarantee. To the extent these amounts are received from the Trust, the Cooperative will be obligated to pay amounts equal to such costs as additional interest (guaranteed by REA) on the Private Note (subject to certain limitations), so that such reimbursement will not reduce distributions to Certificateholders. However, REA has indicated that it would not approve including costs incurred in connection with the issuance of Certificates to investors in the guaranteed interest rate until the time of offering of the Certificates and then only if it determines that such costs cannot be paid directly by the Cooperative from funds then on hand. Further, REA has indicated at this time that certain future enforcement related costs will be paid directly by the Cooperative. An Applicant may not resign as servicer, but may be removed by the Trustee or the Certificateholders following certain defaults or events of bankruptcy relating to the servicer. The insolvency of the Trustee or an Applicant will not affect the Certificateholders' rights, because an Applicant will not hold any Trust assets and assets held in a fiduciary capacity by the Trustee should not be subject to claims of the Trustee's general creditors. Even if the Internal Revenue Service or a state tax authority were to claim successfully that a Trust is a taxable entity (and Applicants do not believe it is), the Certificateholders should receive their back-to-back government guaranteed payments because an Applicant will indemnify the Trust for any resulting taxes under present law.

11. An Applicant may resell the Certificates either in private placements pursuant to Section 4(2) of, or in underwritten public offerings registered under, the Securities Act of 1933 ("Securities Act"), or possibly in distributions exempt from registration because they will come to rest outside the United States (provided that the subject securities are offered and sold outside the United States and to non-U.S. persons without registration under the Securities Act in reliance upon an opinion of U.S. counsel that registration is not required and that no single offering of Certificates both within and outside the United States will be made without registration of all such Certificates under the Securities Act without obtaining a no-action letter permitting such offering or otherwise complying with applicable standards then governing such offerings). In all cases, Applicants will adopt agreements and procedures reasonably designed to prevent such debt securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible). Applicants anticipate that the Certificates will be marketed principally to financial institutions, and expects that the Certificates issued by each Trust will receive the highest investment grade rating ("AAA or "Aaa") from at least two nationally recognized statistical rating organizations not affiliated with any Applicant or the Trusts.

12. Each Certificate will represent a fractional undivided interest in a Trust. The Certificates will be issued in denominations of $1,000 or multiples thereof, and will not be divisible into Certificates with original principal amounts below that figure. The Certificates will be transferable, and may be listed on a national securities exchange. Payments on the Certificates will represent simply pass-throughs of payments received by the Trustee on the private Note held by the Trust. Interest on both the Private Note and the Certificates will be payable semiannually and principal payments on both the Private Note and the Certificates will be payable annually (as is customary for sinking funds with respect to corporate debt securities) for the period during which the Private Note and the Certificates amortize.

13. The Certificates will be prepaid at any time the Private Note is prepaid. It

is anticipated that the Private Notes will be prepayable at the Cooperative's option in whole (but not in part), generally after a no-call period, at premiums declining each year until such premiums equal zero. Although the payment of principal, interest and premium in the event a Cooperative elects to prepay the Private Note will not be covered by the REA Guarantee, the Cooperative will be required to accompany its notice of prepayment (to be given 30 days in advance in order to permit the Trustee in turn to notify Certificateholders of the impending retirement of the Certificates) with a cash deposit equal to the amounts that will be due on the Private Note at the time of prepayment, thus assuring that funds will be available at that time. Pending application, these funds will be invested in obligations issued by the United States or in repurchase agreements in the manner described below. In view of the safety of these investments, Applicants believe that the consequences of the fact that the REA Guarantee does not cover prepayments are not significant.

14. With the exception referred to in the preceding paragraph, all payments on the Certificates will have back-to-back Private note obligations which are supported by the full faith and credit of the United States. If the Cooperative defaults in making its payments or in its other obligations to REA, REA has the option either to pay under the REA Guarantee principal and interest as they fall due on the Private Note, to proceed against the Cooperative and to assume the Cooperative's obligations under the Private Note or, if the Cooperative could at that time make an optional prepayment of the Private Note, optionally to prepay or purchase the Private Note at the same premium as would then be applicable to a prepayment by the Cooperative. The Trustee (or an Applicant, acting as servicer, as its agent), and not the individual Certificateholders, will enforce payments due on the Private Note and the REA Guarantee. However, a specified percentage of Certificateholders may direct the time, method and place of conducting any remedy available to the Trustee or an Applicant, subject to customary indenture exceptions. The Trustee may not resign until the Trust is liquidated and the proceeds distributed to Certificateholders unless a successor Trustee has been designated and has accepted such trusteeship.

15. Scheduled distributions on the Certificates will be made several days (currently anticipated to be 11 calendar days in the case of regular payments of principal and interest) following the corresponding payment on the Private Note. This interval will allow time for an Applicant to notify REA if there is a default by the Cooperative in making a payment on the Private Note and to permit the five business days before REA is obligated to make a payment under the guarantee to elapse before the payment date on the Certificates. As a consequence, if the Cooperative defaults, the full faith and credit guarantee payment will fall due before the scheduled payment on the Certificates. As indicated above, if a Cooperative elects to prepay a Private Loan, distributions on the Certificates will be made 30 days after advance receipt of the amounts to be prepaid, thus permitting notice of the resulting distribution to be given to Certificateholders.

16. During these periods pending distribution (twice annually for 11 days and not more than one additional period of 30 days for any Trust in connection with a prepayment), payments on the Private Note received by the Trust will be invested by it at the direction of an Applicant in (i) obligations issued by the United States (and supported by its full faith and credit) or (ii) repurchase agreements with respect to such obligations, overcollateralized on a basis so that there will not be a reduction in the ratings of the Certificates. All such investments must mature before the next scheduled distribution date on the Certificates. The obligations collateralizing the repurchase agreements in question would be marked to market on a daily basis and kept in the possesison of the Trustee or in its control through book-entry, unless the rating agencies indicate that this is not necessary to maintain the Certificates' rating and the Commission or its staff has indicated it will not object to other arrangements. The repurchase agreements would satisfy the conditions set forth in the Staff's letters dated January 25, April 17 and June 19, 1985, to Matthew Fink, Esq., and applicants believe on the advice of counsel that they would be considered "repurchase agreements" for purposes of Section 559 of the Bankruptcy Code permitting liquidation of such agreements without regard to the stay or avoiding provisions of the Bankruptcy Code (except as set forth therein). Assuming all amounts then due on the Private Notes have been paid in full, any yield on these investments will be turned over to the Cooperative (or to REA to the extent of any unreimbursed payments on the REA Guarantee). Such yield will not flow through to Certificateholders or increase their return on their investment, and the disclosure document will make this clear to prospective Certificateholders.

Applicants' Legal Conclusions:

17. The requested order is necessary or appropriate in the public interest because Congress has acted to encourage prepayment of the FFB Loans with private capital, the basic structure proposed has been agreed upon by REA and Applicants and accommodates the government's concerns about issuance of federally guaranteed debt directly to the public and the investment activity of the Trusts will be very limited.

18. The requested order is consistent with the protection of investors because the limited intended activity of the Trusts and the extreme safety of the assets they will hold obviate the need for the complex regulatory safeguards of the Act.

19. The requested order is consistent with the purposes fairly intended by the policy and provisions of the Act because the Trusts' operations will not lend themselves to the abuses against which the Act is directed.

Applicants' Conditions: If the requested order is granted, the Applicants agree that the Trusts will be subject to the following conditions:

1. To be subject pursuant to Section 6(e) of the Act to Sections 26 (with the following exception), 36, 37 and (to the extent necessary to implement the foregoing sections) 38 through 53 of the Act. They will not be subject to the provisions of Section 26(a)(2) of the Act to the extent they are inconsistent with the servicer compensation arrangements (including the scheduled servicing fee and reimbursements for certain expenses) described in the application, which Applicants believe are fair and reasonable in light of the function each Applicant, as servicer, undertakes. Applicants assert that Certificateholders will receive a fixed return which will not be affected by this compensation, since the Cooperative will be required to pay additional interest on the Private Note (covered by the REA Guarantee) to provide funds for this compensation, which in any event (except for the scheduled servicing fee) is subordinated to payment of all amounts then due on the Certificates.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-17268 Filed 7-27-87; 12:10 pm]

BILLING CODE 8010-01-M

[File No. 81-738]

Application and Opportunity for Hearing; San Diego Solar Concepts II, Ltd.

July 23, 1987.

Notice is hereby given that San Diego Solar Concepts II, Ltd. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the registration requirements of section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person not later than August 17, 1987, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17244 Filed 7-28-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-746]

Application and Opportunity for Hearing; Thirteen Star Partners, Ltd.

July 23, 1987

Notice is hereby given that Thirteen Star Partners, Ltd. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the registration requirements of section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street NW. Washington, DC 20549.

Notice is further given that any interested person not later than August 17, 1987, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17245 Filed 7-28-87; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 81-730, 81-731 and 81-732]

Application and Opportunity for Hearing; Zond Windsystem Partners, Ltd; Series 85-A, Series 85-B and Series 85-C

July 23, 1987.

Notice is hereby given that Zond Windsystem Partners, Ltd. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the registration requirements of section 12(g) of the 1934 Act with respect to the equity securities of three limited partnerships.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person not later than August 17, 1987, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NE., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17246 Filed 7-28-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2285]

Ohio; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on July 17, 1987, I find that Crawford, Marion, Morrow and Richland Counties in the State of Ohio constitute a disaster loan area because of severe storms and flooding occurring on or about July 1, 1987. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on September 17, 1987, and for economic injury until the close of business on April 18, 1988, at: Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Floor, Atlanta, Georgia 30308, or other locally announced locations.

The interest rates are:

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 228506 for physical damage and for economic injury the number is 653800.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: July 20, 1987.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 87-17194 Filed 7-28-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/02-0062]

Filing of an Application for Transfer of Ownership and Control; Northeastern Capital Corp.

Notice is hereby given that an application has been filed with the Small Business Administation (SBA), pursuant to the Regulations governing small business investment companies (13 CFR 107.601 (1987)), for the transfer of ownership and control of Northeastern Capital Corporation, 61 High Street, East Haven, Connecticut 06512, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of ownership and control of Northeastern Capital Corporation, which was licensed on March 8, 1961, is subject to the prior written approval of SBA.

It is proposed that BNH Bancshares, Inc., will acquire all of the issued and outstanding capital stock of Northeastern Capital Corporation into a wholly-owned subsidiary of BNH Bancshares, Inc., formed for the purposes of the proposed transaction. Northeastern Capital Corporation will be the surviving corporation of this merger and upon consummation of the merger, will be a wholly-owned subsidiary of BNH Bancshares, Inc.

The proposed officers, directors and sole shareholder are as follows:

Name and address	Title or relationship	Percent of ownership
Joseph V. Ciaburri, 110 Ansonia Road, Woodbridge, CT 06525.	President, director	
Louis W. Mingione, 33 Harbor Avenue, Madison, CT 06443.	Executive director	
Lawrence M. Liebman, 49 Tumblebrook Road, Woodbridge, CT 06525.	Secretary, director	
David B. Greenberg, 56 Alden Avenue, New Haven, CT 06515.	Director	
Leonard A. Fasano, 30 Mansfield Drive, Apt. 605, Northford, CT 06472.	do	
Gary B. Garolfalo, 5132 Rockwood Parkway, NW, Washington, DC 20016.	do	
George M. Dermer, 37 Tumblebrook Road, Woodbridge, CT 06525.	do	
Vicent A. Romei, 57 Dogwood Circle, Woodbridge, CT 06525.	do	
Stanley Scholsohn, 14 Oak Hill Lane, Woodbridge, CT 06525.	do	
Martin R. Anastasio, 8 Stonewall Lane, Woodbridge, CT 06525.	do	
BNH Bancshares, Inc., 209 Church Street, New Haven, CT 06510.	Sole Shareholder	100

BNH Bancshares, Inc., is a one-bank holding company organized under the laws of the State of Connecticut.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management, and the probability of successful operations under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of the Notice will be publised in a newspaper of general circulation in New Haven, Connecticut.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: July 20, 1987.

[FR Doc. 87-17195 Filed 7-28-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0507]

Issuance of a Small Business Investment Company License; Pyramid Investors, Inc.

On March 12, 1987, a notice was published in the **Federal Register** (52 FR 7961) stating that an application has been filed by Pyramid Investors, Inc., New York, New York with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1987)) for a license as a small business investment company.

Interested parties were given until close of business April 12, 1987, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0507 on June 26, 1987, to Pyramid Investors, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 20, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-17196 Filed 7-28-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements Submitted to OMB on July 24, 1987

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on July 24, 1987, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities. OMB also

considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **FOR FURTHER INFORMATION CONTACT** paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **FOR FURTHER INFORMATION CONTACT** paragraph set forth above. If you anticipate submitting comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on July 24, 1987.

DOT No: 2939
OMB No: 2115–0016
Administration: U.S. Coast Guard
Title: Characteristics of Liquid Chemicals Proposed for Bulk Water Movement

Need for Information: This information collection requirement is needed to enforce the laws and regulations for the safe transportation of hazardous materials by water.

Proposed Use of Information: Coast Guard evaluates the information to determine the kind and degree of precaution needed to protect the vessel, operating personnel, and public.

Frequency: On occasion
Burden Estimate: 300 hours
Respondents: Chemical manufacturers
Form(s): CG–4355

DOT No: 2940
OMB No: 2132–0530
Administration: Urban Mass Transportation Administration
Title: Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance from the Department of Transportation

Need for Information: The information is needed to ensure that recipients of DOT financial assistance do not discriminate against handicapped and elderly persons.

Proposed Use of Information: The data will be used to ensure that recipients are complying with statutory provision concerning transportation services for elderly and handicapped persons.

Frequency: Annually and Triennially.
Burden Estimate: 2,067 hours.
Respondents: State/local Government and Public Transit Authorities.
Form(s): None.

DOT No.: 2941.
OMB No: 2115–0504.
Administration: U.S. Coast Guard.
Title: Tank Vessel Examination Letter, Certificate of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records and Shipping Records.

Need for Information: This information is needed to enable the Coast Guard to fulfill its responsibilities of ensuring maritime safety.

Proposed Use of Information: Coast Guard uses this information as a means to indicate compliance with safety standards and regulations.

Frequency: On occasion.
Burden Estimate: 22,202 Hours.
Respondents: Some owners/operators of large merchant vessels and all foreign-flag tankers calling at U.S. ports.
Form(s): CG–840S–1 and CG–840S–2.

DOT No.: 2942.
OMB No.: 2115–0006.
Administration: U.S. Coast Guard.
Title: Application for License as Officer, Operator or Staff Officer.

Need for Information: This information collection requirement is necessary for Coast Guard to ensure adherence to the numerous maritime statutes governing the issuance and renewal of licenses for merchant seamen.

Proposed Use of Information: Coast Guard will use this information to determine if applicants meet the qualifications to be examined for a license or a license renewal. It is also used to maintain up-to-date records, to obtain information concerning license transactions; to provide information to the Maritime Administration for use in developing personnel forecast which are used to develop budgets; to develop information requested by Congress; to project manpower needs; and to provide information to law enforcement agencies for criminal or civil law enforcement agencies.

Frequency: On occasion.
Burden Estimate: 41,602 hours.
Respondents: Applicants for License.
Form(s): CG–866.

DOT No.: 2943.
OMB No.: 2115–0017.
Administration: U.S. Coast Guard.
Title: Application for Approval for Marine Event.

Need for Information: This information collection requirement is needed to provide effective control over regattas and marine parades performed on navigable waters of the U.S.

Proposed Use of Information: Coast Guard uses the information to evaluate the impact of the event on the environment and to determine the type and degree of supervision or assistance needed to protect other life and property in the area.

Frequency: On occasion.
Burden Estimate: 4,000 hours.
Respondents: Applicants for marine parades or regattas.
Form(s): CG–4423.

DOT No.: 2944.
OMB No.: 2115–0557.
By: U.S. Coast Guard.
Title: Advance Notice of Vessel Arrival and Departure and Waiver.

Need for Information: This information collection requirement is needed to safeguard the United States against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, of vessels, harbors, and waterfront facilities. It is further needed to establish, operate, and maintain vessel traffic services.

Proposed Use of Information: Coast Guard uses this information for (1) vessel traffic supervision; (2) oil and hazardous substance spill; (3) firefighting contingency planning; (4) controlling vessels from Warsaw Pact nations and vessels from nations not permitted to enter U.S. waters or certain U.S. ports; (5) controlling free flag vessels carrying Communist country nationals in the crews; and (6) targeting certain type vessels for examination. It is also used to determine if a waiver of the regulations can be granted.

Frequency: On occasion
Burden Estimate: 51,447 hours
Respondents: Vessel Operators
Form(s): None

DOT No: 2945
OMB No: 2115–0035
By: U.S. Coast Guard
Title: Defect/Compliance Report: Campaign Update Report

Need for Information: Coast Guard needs this information collection requirement to determine if manufacturers of recreational boats and associated equipment are complying with the statutory requirement.

Proposed Use of Information: Coast Guard uses this information to evaluate: (1) the severity of defects and failures to comply with regulations; (2) the danger presented to the public by the defects or failures to comply; (3) corrective action proposed by a manufacturer. This information is also used to monitor the progress of notifications and recalls undertaken by manufacturers.

Frequency: On occasion
Burden of Estimate: 397 hours
Respondents: Recreational boat and associated equipment manufacturers
Form(s): CG–4917, CG–4918

DOT No: 2946
OMB No: 2115–0042
Administration: U.S. Coast Guard
Title: Certificate of Discharge to Merchant Seamen

Need for Information: This information collection requirement is needed to provide merchant seamen with a document of evidence of sea service to determine eligibility for various benefits.

Proposed Use of Information: The seaman and Coast Guard uses the information to establish sea service time and qualifications for issuing original documents or upgrading existing documents. It is also used to develop maritime sea service statistics.

Frequency: On occasion
Burden Estimate: 16,100 hours
Respondents: Merchant Seaman
Form(s): CG–718A

DOT No: 2947
OMB No: 2133–0015
Administration: Maritime Administration
Title: Trustees Annual Supplemental Certification

Need for Information: To approve or disapprove banks and trust companies for participation in MARAD's ship financing programs.

Proposed Use of Information: To determine whether the bank or trust company continues to qualify financially and otherwise act as a trustee under certain ship financial guarantees.

Frequency: On occasion
Burden Estimate: 53 hours
Respondents: Banks and Trust companies
Form(s): MA–580

DOT No: 2948
OMB No: 2120–0043
Administration: Federal Aviation Administration
Title: Recording of Aircraft Conveyances and Security Documents

Need for information: Financing instutitions need the information for proper lien protection

Proposed Use of Information: Approval is needed for security conveyances such as mortgages, submitted by the public for recording against aircraft, engines, propellers, and spare parts locations.

Frequency: On occasion
Burden Estimate: 62,467 hours
Respondents: Anyone who wants to record an aircraft conveyance or security document
Form(s): AC Form 8050–41

DOT No: 2949
OMB No: 2120–0024
Administration: Federal Aviation Administration
Title: Dealer's Aircraft Registration Certificate Application

Need for Information: To determine eligibility of applicant to receive dealer's aircraft registration certificate.

Proposed Use of Information: To issue dealers aircraft registrations to persons engaged in manufacturing, distributing, or selling aircraft.

Frequency: On occasion
Burden Estimate: 464 hours
Respondents: Aircraft manufacturers, dealers, distributors
Form(s): AC Form 8050–5

DOT No: 2950
OMB No.: 2115–0542
Administration: U.S. Coast Guard
Title: Station Bill

Need for Information: This information is needed to provide an efficient means of disseminating information to all personnel as to their duties, duty station and signals used in an emergency and during emergency drills.

Proposed Use of Information: This information is used to ensure that personnel are familiar with their duties in cases of emergency and to reduce the likelihood of personnel injuries during any such emergencies.

Frequency: On occasion
Burden Estimate: 1,700 hours
Respondents: Owners/operators of fixed, manned OCS facilities
Forms:

DOT No: 2951
OMB No: New
Administration: Research & Special Programs Administration
Title: Reporting Unsafe Conditions on Gas and Hazardous Liquid Pipelines and Liquefied Natural Gas Facilities

Need for Information: To implement P.L. 99–516, with goal of preventing unsafe conditions from becoming incidents or accidents.

Proposed Use of Information: To monitor corrective actions proposed for reported unsafe conditions.

Frequency: On occasion
Burden Estimate: 31,675 hours
Respondents: 2,500 operators of gas and hazardous liquid pipelines
Forms: No forms proposed, but format and content of report to be prescribed by regulation.

DOT No: 2952
OMB No.: 2127–0047
Administration: National Highway Traffic Safety Administration
Title: 49 CFR Part 580—Odometer Disclosure Statement

Need for Information: To deter odometer roll backs and to accomplish successful litigation

Proposed Use of Information: The Odometer Disclosure Statements required by 15 U.S.C. 1988 are used by motor vehicle purchasers to determine the condition and value of the vehicles they buy. They are also used as evidence in criminal and civil actions for proving violations of the Truth in Mileage Act.

Frequency: On occasion.
Burden Estimate: 296,961 hours.
Respondents: 35,920,000.
Forms: None.

DOT No: 2953.
OMB No: New.
Administration: Federal Aviation Administration.
Title: Data Link Application Survey.

Need for Information: To ensure that Data Link applications are not developed in a vacuum, but reflect the actual cockpit and ATC environment and to ascertain degree of user acceptance of Data Link services currently in development.

Proposed Use of Information: The information will be used to prioritize service development and availability in accordance with user demand; to provide opportunity for the aviation community to suggest additonal Data Link services.

Frequency: Survey, once per respondent
Burden Estimate: 160 hours
Respondents: Individuals
Forms: Questionnaire

DOT No: 2954
OMB No: 2127–0049
Administration: National Highway Traffic Safety Administration
Title: 49 CFR Part 575—Consumer Information Regulations (Excluding UTQGS)

Need for Information: To provide safety information to new motor vehicle purchasers.

Proposed Use of Information: These regulations establish a system by which information on the performance and safety features on new motor vehicles is made to vehicle purchasers, and to rescind stopping distance data disseminated to first purchasers of motor vehicles.

Frequency: On occasion
Burden Estimate: 429 hours
Respondents: 30 manufacturers
Forms: None

DOT No: 2955
OMB No:: 2115–0110

Administration: U.S. Coast Guard
Title: Vessel Documentation
Need for Information: This information collection is needed to establish a vessel's (1) nationality, (2) eligibility to engage in a particular employment, and (3) eligibility to become an object for a preferred ship's mortgage.
Proposed Use of Information: The Coast Guard uses this information to make eligibility determinations. The Internal Revenue Service uses this information in determining eligibility for investment tax credits and the like.
Frequency: On occasion
Burden Estimate: 58,591 hours
Respondents: Owners/builders of yacht and commercial vessels weighing at least 5 tons
Forms: CG–1258, 1261, 1280, 1322, 1340, 1356, 4593

DOT No: 2956
OMB No: 2115–0528
Administration: U.S. Coast Guard
Title: Financial Responsibility for Water Pollution
Need for Information: This information collection requirement is needed to ensure that the statutory requirements of 33 USC 1321(p) are complied with.
Proposed Use of Information: Coast Guard uses the information to ensure that owners and operators of vessels over 300 gross registered tons, using U.S. waters, have established evidence of financial responsibility as contained in the statute.
Frequency: On occasion
Burden Estimate: 1884 hours
Respondents: Owners/operators of vessels over 300 tons
Form(s): CG–5358–8, CGHQ–5358–10

DOT No: 2957
OMB No: 2120–0065
Administration: Federal Aviation Administration
Title: (New) Airports Grants Program (Old) Airport Development Aid Program-Planning Grant Program (ADAP/PGP)
Need for Information: The FAA needs to collect the information in order to administer the airports grants program.
Proposed Use of Information: The information is used to determine eligibility, and assure proper use of Federal funds and assure project accomplishment.
Frequency: Parts are annually and quarterly, and on occasion
Burden Estimate: 280,337 hours
Respondents: Airport sponsors
Form(s): FAA Forms 5100–60, –61, –62, –63, –100

Issued in Washington, DC., July 24, 1987.
Richard B. Chapman,
Acting Director of Information Resource Management.
[FR Doc. 87–17235 Filed 7–28–87 8:45 am]
BILLING CODE 4910–62–M

[Order 87–7–50; Docket 44844]

Application of Brian Thompson Air Service for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.
ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Brian Thompson Air Service fit and awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation.

DATES: Persons wishing to file objections should do so no later than August 6, 1987.

ADDRESSES: Objections and answers to objections should be filed in Docket 44844 and addressed to the Documentary Services Division (C–55, Room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P–56, Room 6420), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC, (202) 366–2340.

Dated: July 21, 1987.
Matthew V. Scocozza,
Assistant Secretary for Policy and International Affairs.
[FR Doc. 87–17136 Filed 7–28–87; 8:45 am]
BILLING CODE 4910–62–M

Coast Guard

[CGD 87–050]

Lower Mississippi River Waterway Safety Advisory Committee Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–403; 5 U.S.C. App I) notice is hereby given of a meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, August 18, 1987, in the 29th Floor Boardroom of the World Trade Center, 2 Canal Street, New Orleans, LA. The meeting is scheduled to begin at 9:00 a.m. and end at 12:00 noon. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the April 21, 1987, meeting.
3. Report of Coast Guard Headquarters action on draft Notice of Proposed Rulemaking for VTS New Orleans with Eighth Coast Guard District response.
4. Discussion of Inland Radar Observer requirements.
5. Discussion of midstream mooring facility at Kaiser Aluminum and Chemical Corp., Chalmette, LA.
6. Update of old business: a. Progress in obtaining Light Operator Positions.
b. VTS New Orleans Surveillance Expansion Project.
c. Gretna Light television camera installation.
d. Committee charter renewal.
7. Adjournment.

The purpose of this Advisory Committee is to provide consultation and advice to the Commander, Eighth Coast Guard District on all areas of maritime safety affecting this waterway.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander V. O. Eschenberg, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130–3396, telephone number (504) 589–6901.

Dated: July 13, 1987.
Peter J. Rots,
Rear Admiral, U.S. Coast Guard.
[FR Doc. 87–17201 Filed 7–28–87; 8:45 am]
BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement: Jefferson County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway improvement in Jefferson County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Ms. Jacki Lawton, Environmental Coordinator, Federal Highway Administration, 4502 Vernon Boulevard, Madison, Wisconsin 53705–4905. Telephone (608) 264–5967.

SUPPLEMENTARY INFORMATION: An EIS will be prepared in cooperation with the Wisconsin Department of Transportation for transportation improvements to State Trunk Highway (STH) 26 in Jefferson County, Wisconsin. The study area is located north of the Rock/Jefferson County line at the City of Fort Atkinson. The project begins at approximately the Groeler Road/STH 26 intersection in the Town of Koshkonong and proceeds northerly to just north of the County Trunk Highway (CTH) "K"/STH 26 interesection in the Town of Jefferson, a distance of about five miles. Planning, environmental, and location engineering studies are underway to develop transportation improvement alternatives including: (1) The no-build alternative, (2) Reconstruction of the existing roadway or other roadways through the City of Fort Atkinson, and (3) a bypass to the east or west of Fort Atkinson.

The section of STH 26 under study has a number of accidents due to its inadequate capacity and heavy traffic. Severe congestion in downtown Fort Atkinson contributes to a poor level of service and disruption to the business and residential community.

Agency coordination and scoping activities will begin soon and will involve agencies that are indentified as having an interest in or jurisdiction by law regarding the proposed action. Agencies will be notified by mail of the date of formal scoping meeting.

In addition, coordination will continue with local units of government private interest groups, and local citizens, including public meetings and a formal public hearing.

To ensure that a full range of issues related to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on July 22, 1987.

Frank M. Mayer,

Division Administrator, Madison, Wisconsin.

[FR Doc. 87-17149 Filed 7-28-87 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

1988-89 Fulbright Teacher Exchange Program

The United States Information Agency announces the 1988-89 Fulbright Teacher Exchange Program. Applications are invited from elementary and secondary school teachers and administrators and college faculty to teach in schools or colleges, or to attend seminars abroad under the Mutual Educational and Cultural Exchange (Fulbright) Act of 1961. Not all categories of applicants are eligible for exchange or seminar positions with all countries.

Eligibility requirements include: (1) U.S. citizenship; (2) bachelor's degree; (3) three years of full-time teaching experience for seminar positions; (4) current full-time employment in appropriate subject areas and at appropriate teaching level for which application is made; and, (5) fluency in foreign languages for certain non-English speaking countries. Participating countries are announced on a tentative basis: Argentina; Australia; Belgium/Luxembourg; Brazil; Canada; Chile; Colombia; Cyprus; Denmark; Federal Republic of Germany; Finland; France; Hungary; Iceland; Italy; Mexico; the Netherlands; Norway; Panama; the Philippines; South Africa; Switzerland; and the United Kingdom.

Usually, U.S. and foreign teachers exchange teaching positions for one academic year. U.S. and foreign teachers continue to receive salaries from their home institutions.

A limited number of one-way teaching assignments are also available. In addition, seminars are presently planned in Italy and the Netherlands.

Participants in seminars may be provided with transportation, room, board, and/or tuition, depending upon the program.

Applications for the 1988-89 competition must be submitted by October 15, 1987. The application packet is disseminated in August and September. Further information should be requested from the: Fulbright Teacher Exchange Program E/ASX, United States Information Agency, 301 Fourth Street SW., Washington, DC 20547, (202) 458-2555.

Dated: July 21, 1987.

Jeanne J. Smoot,

Director, Office of Academic Programs.

[FR Doc. 87-17150 Filed 7-28-87; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Elaina Norden, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 Days of this notice.

Dated: July 22, 1987.

By direction of the Administrator

Raymond S. Blunt

Director, Office of Program Analysis and Evaluation.

Extension

1. Department of Veterans Benefits
2. Employment Questionnaire
3. VA Form 21-4140
4. This information is used to verify the continued eligibility to receive 100% compensation based on individual unemployability
5. On occasion
6. Individuals or households
7. 45,480 responses
8. 3,790 hours
9. Not applicable

1. Department of Veterans Benefits
2. Supplement to Equal Opportunity Compliance Review Report
3. VA Form 27-8734a
4. This information is needed from postsecondary schools below college level to determine compliance with equal opportunity statutes as required of schools receiving Federal funds
5. On occasion
6. Individuals or households
7. 204 responses
8. 102 hours
9. Not applicable

[FR Doc. 87-17206 Filed 7-28-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 145
Wednesday, July 29, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, July 29, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

PPPA Protocol Revisions

The staff will brief the Commission on response to comments received on an ANPR concerning protocol revisions and on options for revisions to the child and adult testing protocols for poison prevention packaging.

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 24, 1987.

[FR Doc. 87–17270 Filed 7–27–87; 12:22 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, July 30, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Methylene Chloride: Final Rule

The Commission will consider a final rule that, if issued, would declare products which contain methylene chloride to be hazardous substances under section 3(a) of the Federal Hazardous Substances Act.

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 24, 1987.

[FR Doc. 87–17271 Filed 7–27–87; 12:22 pm]

BILLING CODE 6355–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, July 27, 1987 at 2:00 p.m.

PLACE: Room 117, 701 E Street NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   Certain Metallic Balloons (Docket Number 1401).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Stephen McLaughlin,

Acting Secretary.

July 20, 1987.

[FR Doc. 87–17247 Filed 7–24–87; 4:23 pm]

BILLING CODE 7020–02–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 27, August 3, 10, and 17, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 27

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

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

Tuesday, August 11

2:00 p.m.
Briefing on Final Plan for NUREG–0956 Uncertainty Areas (Source Term) (Public Meeting) (Tentative) (Postponed from July 21)

Thursday, August 13

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 17—Tentative

No Commission Meetings

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker, (202) 634–1410.

Robert B. McOsker,

Office of the Secretary.

July 23, 1987.

[FR Doc. 87–17249 Filed 7–24–87; 4:32 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 52, No. 145
Wednesday, July 29, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Supplemental Environmental Assessment; Huntley Meadows Park, Fairfax County, VA

Correction

In notice document 87-16314 appearing on page 27265 in the issue of Monday, July 20, 1987, the heading to the document should have read as set forth above.

BILLING CODE 1505-01-D

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

Correction

In proposed rule document 87-16335 beginning on page 27304 in the issue of Monday, July 20, 1987, make the following correction:

On page 27305, in the third column, in the second from the last line, "Filed 7-7-87" should read "Filed 7-17-87".

BILLING CODE 1505-01-D

federal register

Wednesday
July 29, 1987

Part II

Information Security Oversight Office

32 CFR Part 2001

National Security Information; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2001

National Security Information

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This amendment to 32 CFR Part 2001 Subpart D establishes a new minimum standard for the storage of Top Secret information in locations outside the United States.

EFFECTIVE DATE: July 29, 1987.

FOR FURTHER INFORMATION CONTACT: Rudolph Waddy, Program Analyst, ISOO. Telephone: 202 535–7257.

SUPPLEMENTARY INFORMATION: ISOO is increasing the minimum standard for the protection of Top Secret information stored outside the United States. Part 2001 is issued pursuant to section 5.2(b)(1) of Executive Order 12356. ISOO has coordinated this amendment with the National Security Council and those agencies that will be primarily affected by it.

List of Subjects in 32 CFR Part 2001

Classified information, Executive orders, Information, National Security information, Security equipment, Security information.

23 CFR Part 2001 is amended as follows:

PART 2001—NATIONAL SECURITY INFORMATION

1. The authority citation for 32 CFR Part 2001 continues to read:

Authority: Sec. 5.2(b)(1) of E.O. 12356.

Subpart D—Safeguarding

2. Section 2001.43(a)(1) is revised to read as follows:

§ 2001.43 Storage [4.1(b)].

* * * * *

(a) *Minimum requirements for physical barriers*—(1) *Top Secret.* Top Secret information shall be stored in a GSA-approved security container with an approved, built-in, three-position, dial-type changeable combination lock; in a vault protected by an alarm system and response force; or in other types of storage facilities that meet the standards for Top Secret established under the provisions of § 2001.41. For Top Secret information stored outside the United States, one or more of the following supplementary controls is required:

(i) The area that houses the security container or vault shall be subject to the continuous protection of guard or duty personnel;

(ii) Guard or duty personnel shall inspect the security container or vault at least once every two hours; or

(iii) The security container or vault shall be controlled by an alarm system to which a force will respond in person within 15 minutes.

In addition, heads of agencies shall prescribe those supplementary controls deemed necessary to restrict unauthorized access to areas in which such information is stored both within and outside the United States.

* * * * *

Steven Garfinkel,

Director, Information Security Oversight Office.

July 24, 1987.

[FR Doc. 87–17198 Filed 7–28–87; 8:45 am]

BILLING CODE 6820–KC–M

federal register

Wednesday
July 29, 1987

Part III

Department of Education

34 CFR Part 644

Educational Opportunity Centers Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 644

Educational Opportunity Centers Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Educational Opportunity Centers (EOC) Program. These amendments are needed to implement the changes made in the statute authorizing the EOC Program, Title IV–A–4 of the Higher Education Act of 1965 (HEA) by the Higher Education Amendments of 1986, Pub. L. 99–498.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the U.S. Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Davies, Division of Student Services, U.S. Department of Education, L'Enfant Plaza, P.O. Box 23772, Washington, DC 20026–3772. Telephone: (202) 732–4804.

SUPPLEMENTARY INFORMATION:

Background

The Educational Opportunity Centers (EOC) Program is authorized by Title IV–A–4 of the HEA. Under the program, the Secretary awards grants to enable grantees to provide eligible participants with information and assistance in applying for admission to institutions of postsecondary education and in applying for financial assistance to attend those institutions.

Explanation of Changes

The amended HEA eliminated the cost sharing requirement for the EOC Program and revised the definitions of a "veteran" and "first-generation college student." The latter definition was amended to address the situation where the student regularly resided with, and was supported by, only one parent. Section 646.6(b) has been revised to accommodate these two definitions.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since these amendments incorporate only statutory or structural changes, public comment could have no effect on the content of the regulations. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations would not have a significant economic impact on a substantial number of small entities. These regulations are technical in nature, and amend existing regulations which have been previously determined not to have any significant impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980, and have been found to contain no information collection requirements.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 644

Colleges and universities, Education, Disadvantaged students, Education of handicapped.

(Catalog of Federal Domestic Assistance Number 84.066—Educational Opportunity Centers Program).

Dated: July 13, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 644 of Title 34 of the Code of Federal Regulations to read as follows:

PART 644—[AMENDED]

1. The authority citation of Part 644 is revised to read as follows:

Authority: 20 U.S.C. 1070d–1c.

§ 644.4 [Removed]

2. Section 644.4 is removed.

3. In § 644.6, paragraph (b) is amended by adding definitions of "first-generation college students" and "low-income individual" and revising the definition of "veteran" to read as follows:

§ 644.6 Definitions that apply to the Educational Opportunity Centers Program.

* * * * *

(b) * * *

"First-generation college student" or a "potential first-generation college student means—

(1) An individual both of whose parents did not complete a baccalaureate degree; or

(2) In the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

* * * * *

"Low-income individual" means an individual whose family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participates in the project. Poverty level income is determined by using criteria of poverty established by the Bureau of the Census, U.S. Department of Commerce.

* * * * *

"Veteran" means a person who served on active duty—

(1) For a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

(2) After January 31, 1955, and was discharged or released therefrom because of a service connected disability.

* * * * *

§ 644.10 [Amended]

3. In § 644.10(b), the reference to a "Special Services project" is revised to read "Student Support Services project".

4. Section 644.20 is amended by adding a new paragraph (c) to read as follows:

§ 644.20 Assurances.

* * * * *

(c) An applicant shall submit as part of its application an assurance that at least two-thirds of the participants to be served by the project will be low-income individuals who are, or will be, first-generation college students.

* * * * *

§ 644.42 [Removed]

(5) Section 644.42 is removed.

[FR Doc. 87–17208 Filed 7–28–87; 8:45 am]

BILLING CODE 4000–01–M

federal register

Wednesday
July 29, 1987

Part IV

Department of Education

34 CFR Part 658

Undergraduate International Studies and Foreign Language Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 658

Undergraduate International Studies and Foreign Language Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Undergraduate International Studies and Foreign Language Program regulations in accordance with the provisions contained in the Higher Education Amendments of 1986, Pub. L. 99-498. These regulations will broaden the types of projects and activities the Secretary may fund under the program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Joseph Belmonte, Acting Deputy Director, Center for International Education, U.S. Department of Education, 400 Maryland Avenue, SW, (Room 3054, ROB-3), SW., Washington, DC 20202. Telephone: (202) 732-3304.

SUPPLEMENTARY INFORMATION:

A. Background

The Undergraduate International Studies and Foreign Language Program is authorized under Title VI, section 604 of the Higher Education Act of 1965, as amended. The program is designed to provide grants to institutions of higher education, combinations of those institutions, and public and private nonprofit agencies and organizations, including professional and scholarly associations, to strengthen and improve undergraduate instruction in international studies and foreign languages in the United States.

B. Explanation of Changes

The Secretary is amending these regulations to implement the new statutory provisions in the Higher Education Amendments of 1986. These changes are as follows:

(1) The word "comprehensive" is deleted in § 658.10 (a), (b), and (c), in the introductory text to § 658.11, and in § 658.32 (b)(2)(i) and (c)(2)(ii).

(2) Section 658.11(g) is amended to insert, before the word "teacher", the phrase "pre-service and in-service."

C. Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to publish regulations in proposed form and to offer interested parties the opportunity to comment on the proposed regulations. However, because these new regulations reflect only statutory changes, the Secretary has determined that publication of this document as a proposed rule for public comment is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

These final regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) which govern those requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations would not have a significant economic impact on a substantial number of small entities. These regulations are technical in nature, and amend existing regulations which have been determined previously not to have any significant impact on a substantial number of small entities.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is gathered by, or is available from, any other agency or authority of the United States.

List of Subjects in 34 CFR Part 658

Colleges and Universities, Education, Grant Programs—education, International education.

(Catalog of Federal Domestic Assistance Number 84.016, Undergraduate International Studies and Foreign Language Program)

Dated: July 13, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 658 of Title 34 of the Code of Federal Regulations as follows:

PART 658—UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAM

1. The authority citation for Part 658 is revised to read as follows:

Authority: 20 U.S.C. 1124, unless otherwise noted.

§ 658.10, § 658.11 and § 658.32 [Amended]

2. In Part 658, remove the word "comprehensive" in the following places:

(a) § 658.10(a), (b) introductory text, and (c) introductory text.

(b) § 658.11, introductory text.

(c) § 658.32(b)(2)(i), and (c)(2)(ii).

3. In § 658.11, paragraph (g) is revised to read as follows:

§ 658.11 What projects and activities may a grantee conduct under this program?

* * * * *

(g) Developing an international dimension in pre- and in-service teacher training; and

* * * * *

[FR Doc. 87-17209 Filed 7-28-87; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
July 29, 1987

Part V

Department of Education

34 CFR Part 660

International Research and Studies Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 660

International Research and Studies Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the International Research and Studies Program regulations to conform the regulations to changes made to the statute governing the program, section 606 of the Higher Education Act of 1965, as amended (HEA), by the Higher Education Amendments of 1986, Pub. L. 99–498. These regulations will clarify and increase the types of projects and activities the Secretary may fund under the program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Joseph Belmonte, Acting Deputy Director, Center for International Education, U.S. Department of Education, 400 Maryland Avenue SW. (Room 3054, ROB–3), Washington, DC 20202. Telephone: (202) 732–3304.

SUPPLEMENTARY INFORMATION:

A. Background

The International Research and Studies Program is authorized under section 606 of the Higher Education Act. The program is designed to enhance the international academic programs of American educational institutions through research and through the development of instructional materials concerning modern foreign languages and areas not commonly taught in such institutions.

B. Explanation of Changes

Before being amended, the statute authorizing the International Research and Studies Program cited three specific types of fundable research and studies. The Higher Educational Amendments of 1986 added a fourth, research and studies on the application of proficiency tests and standards across all areas of foreign language instruction and classroom use, and these activities have been added to § 660.1 and § 660.10. In addition, the Higher Education Amendments of 1986 authorized, as an allowable activity, the publication of specialized materials developed as a result of research conducted under this program, and § 660.10 has been amended accordingly.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232 (b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on the proposed regulations. However, the enactment of the Higher Education Amendments of 1986 requires the Secretary to revise certain program provisions. Since these regulations merely implement statutory amendments and do not establish substantive policy, the Secretary finds that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations would not have a significant economic impact on a substantial number of small entities. These regulations are technical in nature, and amend existing regulations which have been determined previously not to have any significant impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

These final regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which govern those requirements.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is gathered by, or is available from, any other agency or authority of the United States.

List of Subjects in 34 CFR Part 660

Colleges and universities, Education, Grant Programs—education, International research.

(Catalog of Federal Domestic Assistance Number 84.017: International Research and Studies Program)

Dated: July 13, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 660 of Title 34 of the Code of Federal Regulations as follows:

PART 660—THE INTERNATIONAL RESEARCH AND STUDIES PROGRAM

1. The authority citation for Part 660 is revised to read as follows:

Authority: 20 U.S.C. 1125, unless otherwise noted.

2. In § 660.1, the word "and" is deleted at the end of paragraph (b), paragraph (c) is revised and redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

§ 660.1 What is the International Research and Studies Program?

* * * * *

(c) Research on the application of proficiency tests and standards across all areas of foreign language instruction and classroom use; and

(d) The development and publication of specialized materials for use in providing instruction and evaluation or for use in training individuals to provide instruction and evaluation.

(Authority: 20 U.S.C. 1125)

3. In § 660.10, paragraph (b) and the introductory text of paragraph (c) are revised to read as follows:

§ 660.10 What activities does the Secretary assist?

* * * * *

(b) Research and studies—

(1) On more effective methods of instruction in modern foreign languages, area studies, or related fields;

(2) To evaluate competency in those foreign languages, area studies, or related fields; or

(3) On the application of proficiency tests and standards across all areas of foreign language instruction and classroom use.

(c) The development and publication of specialized materials—

* * * * *

[FR Doc. 87–17210 Filed 7–28–87; 8:45 am]

BILLING CODE 4000–01–M

federal register

Wednesday
July 29, 1987

Part VI

Department of Education

34 CFR Part 661

Business and International Education Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 661

Business and International Education Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Business and International Education Program final regulations in accordance with the provisions contained in the Higher Education Amendments of 1986, Pub. L. 99–498. These regulations will broaden the types of projects and activities the Secretary may fund under the program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Joseph Belmonte, Acting Deputy Director, Center for International Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3054, ROB–3), Washington, DC 20202. Telephone: (202) 732–3304.

SUPPLEMENTARY INFORMATION:

A. Background

The Business and International Education Program is authorized under Title VI, part B of the Higher Education Act of 1965, as amended (HEA). The program is designed to promote linkages between institutions of higher education and American businesses engaged in international economic activity.

B. Explanation of Changes

Before being amended by the Higher Education Amendments of 1986, Pub. L. 99–498, section 612(b) of the HEA listed nine specific fundable activities. The Higher Education Amendments of 1986 added a tenth activity to the list, internships overseas for foreign language students, and that activity has been added to the list of activities in § 661.10(j).

C. Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to publish regulations in proposed form and to offer interested parties the opportunity to comment on the proposed regulations. However, because these new regulations reflect only statutory changes, the Secretary has determined that publication of this document as a proposed rule for public comment is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

The regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

The final regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which govern those requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations would not have a significant economic impact on a substantial number of small entities. These regulations are technical in nature, and amend existing regulations which have been determined previously not to have any significant impact on a substantial number of small entities.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is gathered by, or is available from, any other agency or authority of the United States.

List of Subjects in 34 CFR Part 661

Colleges and universities, Education, Educational study programs, Grant programs, International Education.

(Catalog of Federal Domestic Assistance Number 84.153: Business and International Education Program)

Dated: July 1, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 661 of Title 34 of the Code of Federal Regulations as follows:

PART 661—BUSINESS AND INTERNATIONAL EDUCATION PROGRAM

1. The authority citation for Part 661 is revised to read as follows:

Authority: 20 U.S.C. 1130–1130b, unless otherwise noted.

2. In § 661.10, the word "and" after paragraph (h) and the period after paragraph (i) are removed, "; and" is added after paragraph (i), and a new paragraph (j) is added to read as follows:

§ 661.10 What activities does the Secretary assist under this program?

* * * * *

(j) The establishment of internships overseas to enable foreign language students to develop their foreign language skills and their knowledge of foreign cultures and societies.

(Authority: 20 U.S.C. 1130–1130b)

[FR Doc. 87–17211 Filed 7–28–87; 8:45 am]

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federal register

Wednesday
July 29, 1987

Part VII

Environmental Protection Agency

40 CFR Part 418

Fertilizer Manufacturing Point Source Category; Effluent Limitations Guidelines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 418

[FRL 3228-4]

Fertilizer Manufacturing Point Source Category; Effluent Limitations Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends the applicability of the best practicable control technology currently available (BPT), the best available technology economically achievable (BAT), and the best conventional pollutant control technology (BCT) effluent limitations guidelines for the phosphate subcategory of the fertilizer manufacturing point source category. It excludes wet-process phosphoric acid processes that were under construction either on or before April 8, 1974, at plants located in the State of Louisiana from those effluent limitations guidelines. National Pollutant Discharge Elimination System (NPDES) permits for those processes will be developed on a case-by-case basis and will be based on technology-based requirements as determined by the best professional judgment (BPJ) of EPA and on applicable state water quality standards. The currently effective new source performance standards (NSPS) for the phosphate subcategory are not affected by this final rule.

DATES: This final rule is effective on July 31, 1987. This final rule shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on July 29, 1987. Under section 509(b)(1) of the Clean Water Act, as amended, judicial review of this final rule can be made only by filing a petition for review in the United States Court of Appeals within 120 days after the rule is considered issued for purposes of judicial review.

ADDRESSES: The administrative record for this final rule is available for review in EPA's Public Reference Unit, Room 2404 (EPA Library), 401 M Street, SW., Washington, DC and at the EPA Region VI Office, Allied Bank Tower, 1445 Ross Avenue, Dallas, Texas 75202-2733. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Southworth, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 382-7150.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority, background, and other aspects of the final rule. The abbreviations, acronyms, and other terms used in the preamble are defined in Appendix A.

Organization of this Preamble

I. Legal Authority

This final rule is promulgated under authority of sections 301, 304, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended, 33 U.S.C. 1251 *et seq.*), and section 306(c) of the Water Quality Act of 1987, Pub. L. 100-4.

II. Scope of this Rulemaking

This final rule amends the applicability of the BPT, BAT, and BCT effluent limitations guidelines for the phosphate subcategory in the fertilizer manufacturing point source category. The rule excludes wet-process phosphoric acid processes that were under construction either on or before April 8, 1974, at plants located in Louisiana from those effluent limitations guidelines. Technology-based limitations in the National Pollutant Discharge Elimination System (NPDES) permits for the wet-process phosphoric acid processes at the Louisiana plants will be developed on a case-by-case basis and will be based on the best professional judgement (BPJ) of EPA. New source performance standards for the phosphate subcategory are not affected by this final rule.

III. Background

A. EPA Regulation

On April 8, 1974, EPA promulgated effluent limitations guidelines, pretreatment standards, and new source performance standards for wet-process phosphoric acid manufacturing processes (39 FR 12836). Those effluent limitations guidelines and standards were amended on May 19, 1976 (41 FR 20582) and on August 29, 1979 (44 FR 50742). Processes subject to the effluent limitations guidelines and standards are in the phosphate subcategory of the fertilizer manufacturing point source category.

Included in the effluent limitations guidelines for the phosphate subcategory are limitations based on the application of the best practicable control technology currently available (BPT) and limitations based on the application of the best available technology economically achievable (BAT) for wet-process phosphoric acid processes (40 CFR 418.12 and 418.13). EPA promulgated effluent limitations guidelines for wet-process phosphoric acid processes based on the application of the best conventional pollutant control technology (BCT) on August 29, 1979 (44 FR 50742, 40 CFR 418.17). The BCT effluent limitations guidelines were amended on June 2, 1980 (45 FR 37199).

The BPT effluent limitations guidelines require no discharge of process wastewater pollutants except that process wastewater may be discharged after treatment from a runoff facility designed, constructed, and operated to maintain a surge capacity equal to the volume of runoff from the 10-year, 24-hour storm event. The BAT and BCT effluent limitations guidelines also require no discharge of process wastewater pollutants except that process wastewater may be discharged after treatment from a runoff facility designed, constructed, and operated to maintain a surge capacity equal to the volume of runoff from the 25-year, 24-hour storm event. For all three guidelines, wastewater must be treated and discharged whenever the water level in the runoff facility equals or exceeds the midpoint level of the facility's surge capacity. The discharge from a runoff facility must meet the limitations for total phosphorus, fluoride, and total suspended solids in the guidelines.

B. Wet-Process Phosphoric Acid Processes

In the wet-process phosphoric acid process, phosphate rock is mixed with sulfuric acid to produce phosphoric acid, which is then processed into phosphate fertilizer. Approximately five tons of gypsum, a by-product of the wet-process phosphoric acid process are generated for each ton of phosphoric acid produced. Generally, the gypsum is disposed of as a waste.

At most plants, gypsum is disposed of on the land. It is pumped to a stack as a slurry. The transport water in the slurry

drains off the stack to a runoff facility and is usually recycled to the manufacturing process along with any storm water runoff from the stack. The gypsum remains on the stack permanently. A water balance for this disposal method is maintained by reuse of the transport water in the manufacturing process and by solar evaporation of water in the slurry pond on top of the gypsum stack and in the runoff facility. Because the transport water in the gypsum slurry is recycled to the manufacturing process, wet-process phosphoric acid processes do not discharge process wastewater as long as precipitation is not greater than evaporation. When the precipitation exceeds evaporation, the water that cannot be recycled to the manufacturing process is discharged after treatment.

There are four plants with wet-process phosphoric acid processes in Louisiana: Agrico Chemical Co. at Donaldsonville; Arcadian Corp. (formerly Allied Corp.) at Geismar; Beker Industries Corp. at Taft; and Freeport Chemical Corp. at Uncle Sam. All four plants are located on the Mississippi River between New Orleans and Baton Rouge. Wet-process phosphoric acid production operations at these plants began between 1966 and 1974. The plants use the wet-process phosphoric acid manufacturing process for which the effluent limitations guidelines were promulgated. The annual production rate of phosphoric acid for the four plants ranges from 160,000 tons for the smallest plant to 750,000 tons for the largest plant. These rates are within the range of production rates typical of plants in the rest of the industry.

C. Review of Regulation

As previously mentioned, the BPT, BAT, and BCT effluent limitations guidelines for the phosphoric subcategory require no discharge of process wastewater pollutants, except under certain conditions, for wet-process phosphoric acid processes. The technology basis for the guidelines is recycle of the wastewater, stacking of gypsum on the land, and two stage lime treatment of any discharge from a runoff facility.

In response to petitions from industry, EPA proposed on July 25, 1984 (49 FR 29977), to withdraw the effluent limitations guidelines for the wet-process phosphoric acid processes at the Louisiana plants. EPA based the proposed withdrawal on the premise that the original technology basis (i.e., land disposal of gypsum) for the effluent limitations guidelines was not available and economically achievable for all four Louisiana plants. In addition, the Agency was unable to identify any other available and economically achievable no discharge technology that could be used as the technology basis for the effluent limitations guidelines for the wet-process phosphoric acid processes at the four Louisiana plants at the present time.

On March 12, 1986, the Agency published a Notice of Availability and Request for Comments and a Notice of Public Hearing in the **Federal Register** (51 FR 8520). This notice announced the availability of new data for the review of the BPT, BAT, and BCT effluent limitations guidelines for the four plants and requested comments on those data. The notice also announced a public hearing on the proposed amendment and on draft NPDES permits for the wet-process phosphoric acid processes at the four plants in Louisiana.

EPA has reviewed and considered the numerous and varied public comments on the proposal and held public hearings on the proposal in April 1986. Some commenters agreed with the proposal to withdraw the effluent limitations guidelines while others argued that the effluent limitations guidelines are achievable and should not be withdrawn. Subsequent to the proposal, the Agency received additional information from the Louisiana plants on the period of time the plants could stack gypsum on available land and on the costs of treating the discharge from a runoff facility.

In February 1987, Congress enacted Pub. L. 100–4—The Water Quality Act of 1987 (the "WQA"). Section 306(c) of the WQA requires EPA to issue NPDES permits for the wet-process phosphoric acid processes at the Louisiana plants by August 4, 1987. The statute does not specify the effluent limitations that are to be included in the permits, but provides that the permits be issued pursuant to section 402(a)(1)(B) of the Act. Section 402(a)(1)(B) provides for the issuance of permits, prior to the promulgation of applicable regulations, that include "such conditions as the Administrator determines are necessary to carry out the provisions of this Act." Traditionally, in cases where no nationally applicable regulations exist, EPA has relied on the language in what is now section 402(a)(1)(B) to issue permits with effluent limitations based on the permit authority's best professional judgment ("BPJ") of what is required to meet the Act's technology-based requirements.

Section 306(c) of the WQA further specifies that it: (1) Does not require the Administrator to permit the discharge of gypsum; (2) does not affect the procedures and standards applicable to issuing permits; (3) and does not affect the authority of the state to deny or condition certification of the permits.

EPA is thus confronted with a statutory duty to issue NPDES permits for the wet-process phosphoric acid processes at the Louisiana plants by August 4, 1987. EPA is convinced that it is appropriate to issue those permits on a case-by-case basis, rather than base the permits on nationally-applicable effluent limitations guidelines. The WQA's mandate to issue permits under section 402(a)(1)(B) of the Act indicates Congress' intent that EPA establish permit limitations for the wet-process phosphoric acid processes at the four Louisiana plants on a BPJ basis. Moreover, EPA has some doubt that the current effluent limitations guidelines are economically achievable for the Louisiana plants. For example, some plants state that they can not continue to meet the no discharge requirement in the guidelines because they do not have enough land to stack gypsum for an extended period. The Agency could not identify any other technology that could be used as the basis for the no discharge requirement in the guidelines at this time. In addition, current information suggests that some of the plants may not be able economically to achieve the requirement in the guidelines to treat the discharge from a runoff facility.

EPA also prefers to regulate the wet-process phosphoric acid processes at the Louisiana plants on a BPJ basis, rather than by a national regulation, because the plants are located close to each other and are subject to regulation by the same permitting authority (EPA Region VI). Although the Agency did consider establishing a separate subcategory for the Louisiana plants, there are enough differences among the plants (particularly in the amount of land available to stack gypsum) that effluent limitations guidelines for all of the plants based on a single best available technology economically achievable are not appropriate. Finally, given the short time-frame that EPA has to issue the permits, the Agency believes it is better to devote resources to the development of case-by-case technology-based limitations based on BPJ rather than use those resources to develop new effluent limitations guidelines for the wet-process phosphoric acid processes at the Louisiana plants.

Therefore, EPA considers it preferable to develop the technology-based limitations for the wet-process phosphoric acid processes at the

Louisiana plants on a case-by-case basis. In each case, the limitations in the permits will be based on a determination of the best available technology economically achievable for a plant. The permits will also include more stringent conditions if necessary to comply with state water quality standards. Those permits, which will be issued by EPA Region VI, will be subject to an administrative review separate from the administrative review for this final amendment. EPA emphasizes that withdrawal of the guidelines does not necessarily mean the Louisiana plants will be allowed to discharge gypsum to the Mississippi River.

IV. Alternative No Discharge Technologies Considered for the Final Regulation

For reasons discussed above, EPA has decided to withdraw the effluent limitations guidelines for the wet-process phosphoric acid processes at the Louisiana plants and not to issue new guidelines for these processes. However, during the review of the current effluent limitations guidelines for the phosphate subcategory, the Agency considered other technologies that might be used as the technology basis for the no discharge requirement in the guidelines for the wet-process phosphoric acid processes at the four Louisiana plants. They are:

1. Barge gypsum either up or down the Mississippi River to an alternative site for land disposal.
2. Transport gypsum via a pipeline to an alternative site for land disposal.
3. Truck gypsum to an alternative site for land disposal.
4. Reuse the gypsum.
5. Stabilize the gypsum stacks using either fly ash, cement, or lime.
6. Dispose of the gypsum slurry by underground injection.
7. Stack gypsum in the wetlands adjacent to the plants.
8. Barge gypsum to the Gulf of Mexico for ocean disposal.

The Agency concluded that none of these alternatives are both technically and economically feasible as the technology basis for the no discharge requirement for the four Louisiana plants at this time. Alternatives 1 through 3 are not economically feasible. The other alternatives are not feasible for the reasons discussed below.

Several options were investigated for the reuse of gypsum (Alternative 4). They include: (a) To construct roads, (b) to condition soil, (c) to construct levees, and (d) to produce the sulfuric acid used in the phosphoric acid production process. Options a and b appear to be feasible with some constraints. However, even if gypsum could be used for those purposes, the demand for gypsum is not high enough to use all of the gypsum produced by the Louisiana plants.

Based on the results of a preliminary investigation, the U.S. Army Corps of Engineers (COE) advised EPA that gypsum probably will be unsuitable for levee construction. The COE found that a gypsum synthetic aggregrate was inferior to the material currently used in rock dikes (i.e., shell) because of the rapid deterioration of the aggregrate in water. They also found that gypsum most likely would not be cost-effective as a construction material for sand core levees because of the distance that gypsum would have to be hauled to the construction site.

Reuse of gypsum to produce sulfuric acid has been demonstrated in other countries. If the Louisiana plants decided to install the equipment to produce sulfuric acid, that installation most likely could not be completed within the next five years. Even if the equipment was installed, the plants would still have to dispose of a large amount of material that remains after the sulfuric acid is produced.

Alternatives 5 and 6 are not technically feasible. Stabilization of the gypsum stacks requires large quantities of material and increases the weight of the gypsum stack thus increasing the likelihood of more gypsum stack failures. Gypsum slurry injected underground most likely would plug the underground injection zone and result in negative environment impacts.

Alternative 7 would be to stack gypsum in the wetlands adjacent to the Louisiana plants. The stacking of gypsum in an environmentally sensitive area would require a permit under either section 402 or section 404 of the Clean Water Act. EPA cannot determine now whether such a permit would be issued or what requirements the permit would contain if it was issued.

Alternative 8 (ocean disposal of the gypsum) would require a permit under the Marine Protection, Research, and Sanctions Act (MPRSA), 33 U.S.C. 1401, et seq. No permit has ever been issued to dump materials such as gypsum into the ocean. In addition, there is no approved site for ocean disposal of these types of materials. Furthermore, section 104(i) of the MPRSA includes special requirements for issuance of a permit for materials with low levels of radioactivity, which may include the gypsum generated in the wet-process phosphoric acid processes at the Louisiana plants. Section 104(i) requires that an applicant for such a permit must submit a detailed Radioactive Material Disposal Impact Assessment. That section also states that EPA may not issue a permit for ocean dumping of such material unless and until Congress passes a joint resolution that authorizes EPA to issue the permit. At this time, EPA's regulations do not contain requirements for site designation, packaging, and site-monitoring for ocean disposal of low level radioactive waste. However, the Agency is in the process of revising the ocean dumping regulation, which should be proposed by the end of 1987. For these reasons, EPA has concluded that ocean disposal is most likely not an available alternative for the technology basis for the no discharge requirement for the Louisiana plants. The Agency notes, however, that if a permit were issued and if an approved site were available within 100 miles of the mouth of the Mississippi River, the estimated cost for this alternative expressed in terms of dollars per ton of phosphoric acid produced would be sufficiently close to the estimated profit per ton of phosphoric acid produced to suggest that this alternative may be economically achievable on a case-by-case basis.

V. Final Amendment to the Regulation

A. BPT, BAT, and BCT Effluent Limitations Guidelines

For the reasons set forth above, EPA is withdrawing the applicability of the BPT, BAT, and BCT effluent limitations guidelines for the phosphate category to wet-process phosphoric acid processes that were under construction either on or before April 8, 1974, at plants in Louisiana. NPDES permits will be written for those processes on a case-by-case basis and will be based on technology-based requirements as determined by the best professional judgment of EPA and on applicable state water quality standards. EPA's Region VI issued the draft NPDES permits for those processes and will develop final NPDES permits after considering comments on the draft permits from the public and from the State and local governments.

B. New Source Performance Standards

The existing new source performance standards (NSPS) for the phosphate subcategory are not affected by this final rule. New wet-process phosphoric

acid processes at plants in Louisiana must comply with the NSPS promulgated in 1974.

VI. Public Participation and Response to Major Comments

Industry and the public participated in the development of this final amendment to the phosphate subcategory effluent limitations guidelines. Following publication of the proposed guideline amendment in the Federal Register on July 25, 1984, the Agency provided the technology support documents for the proposal in the administrative record for the proposed amendment. A copy of the record was made available to the public at EPA's Headquarters in Washington, DC and at EPA's Region VI office in Dallas, Texas. The Agency also notified the public in a Federal Register notice dated March 12, 1986, about a public hearing on the proposed guideline amendment that was held on April 10, 1986, in Baton Rouge, Louisiana. In response to requests from the public, EPA held a second public hearing on the proposed amendment on April 11, 1986, in New Orleans, Louisiana.

The Agency received 56 letters with comments on the proposed guideline amendment during the comment period for the proposal. Approximately half of the letters supported the proposed guideline amendment and approximately one-third opposed the proposal amendment. The remainder of the letters either requested a second public hearing on the proposal or provided information.

The Agency received approximately 60 comments on the proposed guideline amendment during and after the public hearings in 1986. Most of those comments opposed the proposed amendment.

The comments that supported the proposed guideline amendment include: (1) The proposal prevents groundwater contamination because the plants no longer would have to stack gypsum on the land, (2) the proposal prevents waste of wetland and farmland because gypsum would not have to be stacked on the land, and (3) the proposal prevents the plants from closing because they have no more land for the disposal of gypsum. These comments imply that if the regulation is amended the four Louisiana plants could discharge the gypsum instead of stacking it on land. The Agency's proposed guideline amendment did not authorize the discharge of gypsum. It would have excluded the wet-process phosphoric acid processes from the current requirements in the effluent limitation guidelines, which would have allowed EPA to develop a BPJ permit for each plant.

The major issues raised by the commenters who opposed the proposed guideline amendment are: (1) Reuse should be used as the technology basis for no discharge of process wastewaters, (2) the Agency does not have legal authority to change the regulation and (3) exempting the Louisiana plants from the regulation gives them a competitive advantage. The Agency's responses to those comments are presented below.

Comments were also received at the public hearings concerning the water quality impacts of the draft NPDES permits. EPA Region VI will respond to those comments as part of the process to develop the final permits for the Louisiana plants.

A. Reuse

As previously mentioned, reuse of gypsum was considered as an alternative to achieve no discharge of process wastewater pollutants. However, the reuse options are either not feasible at this time or can not be used to dispose of the quantities of gypsum generated by the Louisiana plants. For these reasons, EPA concluded that reuse can not be used as the technology basis for a generally-applicable no discharge requirement at this time. Reuse may be considered in the future when reissuing BPJ NPDES permits for the wet-process phosphoric acid processes at the Louisiana plants.

B. Legal Authority

Some commenters argued that EPA does not have the legal authority to exclude the wet-process phosphoric acid processes at the Louisiana plants from the regulation and issue the plants permits based on BPJ. EPA does not believe that the Clean Water Act requires the wet-process phosphoric acid processes at the Louisiana plants to be regulated according to nationally-promulgated effluent limitations guidelines. The Agency has the discretion to choose the appropriate regulatory approach for the four Louisiana plants. Moreover, in section 306(c) of the WQA, Congress specified that those plants be regulated by case-by-case permits. As required by the Clean Water Act, those permits will contain effluent limitations based on appropriate technology-based requirements and on applicable state water quality standards. This final rule does not exempt the wet-process phosphoric acid processes at the Louisiana plants from any substantive or procedural statutory requirements imposed by the Clean Water Act.

C. Competitive Advantage

Some commenters indicated that the four Louisiana plants would gain a competitive advantage if they were excluded from the regulation. The withdrawal of the effluent limitations guidelines does not confer either a competitive advantage or competitive disadvantage. Even though the four plants would not have to comply with the regulation, they would have to comply with the technology-based BPJ permits for those plants. Thus, the competitive advantage question cannot be answered until the requirements in the individual permits are known.

VII. Availability of Technical Information

The major documents for this final amendment to the phosphate subcategory effluent limitations guidelines are: (1) *Technical Support Document—No Discharge Alternatives for Wet-Process Phosphoric Acid Processes at Louisiana Plants* (U.S. EPA, Washington, DC, July 1987), (2) *Economic Impact Analysis for Amendment to the Phosphate Fertilizer Effluent Guidelines,* (U.S. EPA, Washington, DC, July 1987), and (3) *Response to Public Comments on the Proposed Amendment to the Phosphate Subcategory Effluent Limitations Guidelines,* (U.S. EPA, Washington, DC, July 1987).

Copies of these documents are available for public review at the EPA Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street, SW., Washington, DC and at the EPA Region VI Office, Allied Bank Tower, 1445 Ross Avenue, Dallas, Texas 75202–2733. The Administrative Record for this final rule is available for review at the Headquarters Public Information Reference Unit and at the EPA Region VI office. The EPA public information regulation (40 CFR Part 2) allows the Agency to charge a reasonable fee for copying.

VIII. Effective Date

As noted above, this final rule is effective on July 31, 1987. This allows EPA Region VI to issue BPJ permits for the Louisiana plants within the time frame specified in section 306(c) of the WQA.

Under the Administrative Procedure Act (the "APA"), publication of a substantive rule must be made not less than 30 days before the effective date. However, the APA exempts from that requirement "a substantive rule which grants or recognizes an exemption or relieves a restriction" 5 U.S.C. 553(d)(1). Today's final rule falls within this exemption.

IX. Office of Management and Budget Review

This final rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Written comments made by OMB are in the Administrative Record for the final rule.

List of Subjects in 40 CFR Part 418

Fertilizer manufacturing, Phosphoric acid manufacturing, Water pollution control, Wastewater treatment and disposal.

Dated: July 24, 1987.

Lee M. Thomas,

Administrator.

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Preamble

Act—The Clean Water Act, as amended.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under section 304(b)(2) of the Act.

BCT—The best conventional pollutant control technology, under section 304(b)(4) of the Act.

BPJ—Best professional judgment.

BPT—The best practical control technology currently available under section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*) as amended by the Clean Water Act of 1977 (Pub. L. 95–217), as further amended.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act.

NSPS—New source performance standards under section 306 of the Act.

WQA—The Water Quality Act of 1987, Pub. L. 100–4.

For the reasons set forth in the preamble, 40 CFR Part 418 is amended as follows:

PART 418—FERTILIZER MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for Part 418 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 418.10 is revised to read as follows:

§ 418.10 Applicability; description of the phosphate subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of sulfuric acid by sulfur burning, wet-process phosphoric acid, normal superphosphate, triple superphosphate, and ammonium phosphate, except that the provisions of §§ 418.12, 418.13, and 418.17 shall not apply to wet-process phosphoric acid processes that were under construction either on or before April 8, 1974, at plants located in the State of Louisiana.

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Wednesday
July 29, 1987

Part VIII

Legal Services Corporation

45 CFR Part 1612

Restrictions on Lobbying and Certain Other Activities; Final Rule and Request for Comments

LEGAL SERVICES CORPORATION

45 CFR Part 1612

Restrictions on Lobbying and Certain Other Activities

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: On January 30, 1987, LSC's Board of Directors approved an amended version of Part 1612 of its regulations for final publication. A revised rule was necessary because the Corporation's FY 1987 appropriations acts (Pub. L. 99–500 and 99–591) prohibited the expenditure of LSC funds to implement or enforce either the 1984 or 1986 versions of Part 1612. The general purpose and effect of the amended Rule 1612 is to clarify restrictions on certain activities of legal services programs. These latest revisions principally address four areas of concern: Payment of dues to advocacy groups, recordkeeping, participation in programs with groups that lobby, and the use of private funds.

Congress has been given the fifteen-day notice required by section 606 of Pub. L. 99–180. This revision of Part 1612 will go into effect thirty days after publication in the **Federal Register**.

EFFECTIVE DATE: August 28, 1987.

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

SUPPLEMENTARY INFORMATION: Notice of reconsideration of the final rule, as published on August 1, 1986, was published in the **Federal Register** on November 7, 1986 (51 FR 40422). Interested parties were given 30 days, until December 8, 1986, in which to submit comments. A total of 45 comments, 37 of which were timely, were received and considered by the Corporation. The comments were received from recipient program directors, state bar organizations, the American Bar Association and the academic community. Public comment was heard by the LSC Board's Operations and Regulations Committee on December 15, 1986, and on January 29, 1987. On January 29, the full Board considered and approved the final rule for publication.

In revising the regulation, which governs the array of legal services available to needy members of our communities, the purpose of the Board has been to clarify what programs can do, consistent with Congressional intent, in *bona fide* representation of eligible clients. To that end, the Board has, through the regulatory process, attempted to explicate and apply certain statutory restrictions. The significant changes effected by the regulation are summarized below. Excepting those parts of the Rule that have been eliminated or amended by the Board's action on January 29, 1987, and are discussed, *infra*, explanation of provisions of Part 1612, as set forth in the Preamble to the Final Rule published in the August 1, 1986 **Federal Register** (51 FR 27539–27548), is *pro tanto* retained and is herein incorporated by reference. Those sections of the 1986 Preamble which are no longer applicable are the discussions of: (1) The use of LSC funds to maintain separate offices, *see* 51 FR 27542; (2) the payment of dues with LSC funds, *id.* at 27542; (3) transportation costs, *id.* at 27543; (4) attendance at coalition meetings, *id.* at 27543; (5) the documentation requirements for § 1612.5 (c), (e) and (f), including discussion of the content of a client's retainer form and reports to a recipient's Board on the exhaustion of appropriate judicial and administrative relief, *id.* at 27543–27544; (6) the restrictions on the use of LSC funds for dissemination of publications to the public at large or eligible clients generally, *id.* at 27545; (7) the restrictions on organizing, but only to the extent that the discussion would exclude the organization of clients' councils, *id.* at 27546–27547; (8) timekeeping requirements, *id.* at 27547; and (9) private funds, but only to the extent that the discussion fails to recognize that the LSC Board has added three additional exceptions to the prohibition on using private funds for lobbying, *id.* at 27548.

The entire Rule, as revised, is republished for clarity and ease of use.

Section 1612.1 Definitions

The definition of "legislative activities" in § 1612.1(g) was amended to exclude adjudicatory proceedings or negotiations involving the *bona fide* representation of an eligible client with respect to a particular application, claim, or case.

The definition of "publicity and propaganda" in paragraph (m) has a brief amendment. The words "an indirect" have been changed to "amounts to a direct". The Corporation will, of course, be required to decide on a case-by-case basis whether the circumstances surrounding the communication, when taken as a whole, reasonably amount to a direct suggestion to the public to take part in proscribed activities. The words "pending or proposed" have been inserted before "legislation" in order that the language in the regulation more fully conform to that in the appropriations act.

The last sentence in the definition of prohibited "publicity or propaganda" has been added to clarify its scope. Excluded from the prohibition is neutral reporting of the content, status, or effect on eligible clients of pending or proposed legislation. The term "neutral reporting" has been added to make clear that advocacy reporting is not allowed. For instance, a newsletter article that appears to be fairly neutral in its report of legislation becomes prohibited advocacy if the reader is told how to contact his representative or the committee dealing with the legislation. Information on how to support or oppose legislation is also considered advocacy.

Section 1612.2 Legal Assistance Activities

The phrase "[e]xcept as hereinafter provided" refers to § 1612.13 which controls how private funds may be used.

Section 1612.3 Legislative Activity in General

This section delineates those activities which may not be funded with LSC money. Paragraph (a) which proscribed the use of funds to maintain separate offices for the sole purpose of engaging in political or legislative activities was deleted as unnecessary.

Former paragraph (b), now paragraph (a), was changed to allow the payment of dues to organizations which engage in, *inter alia*, political or legislative activities, provided the dues are not used to engage in legislative activities for which LSC funds cannot be directly used. The recipient retains the burden to show with appropriate documentation that LSC funds have not been improperly used. The prohibition in this paragraph does not apply to dues paid to certain bar associations such as national, state, and local bars that have a general purpose and general membership. This definition precludes payments to special interest bar associations such as the Federalist Society, the Republican National Lawyers' Association, or the National Legal Aid and Defender Association.

Paragraph (b), formerly paragraph (c), prohibits the use of LSC funds to pay the transportation costs to legislative or administrative proceedings except for a limited number of persons. LSC funds may be used to pay the transportation costs for recipient employees or law students, but only if they are directly engaged in permissible activities.

In order for employees to have their transportation paid for, they must be actually engaged in permitted legislative or administrative representation. Nevertheless, a new provision has been added making it permissible to use LSC funds to pay for transportation costs for employees if they are being trained to handle administrative adjudicatory proceedings, even if they are not actively involved in the proceedings.

Funds made available by the Corporation may also be used to pay transportation costs for the client and the client's family when necessary and appropriate. If is necessary and appropriate to use LSC funds to pay transportation costs, for example, when the client has an elderly parent or dependent children who cannot be left alone at home while the client attends the proceedings. This provision does not mean that any family member may have his costs paid for merely because the member is related to the client.

A suggestion that "lay advocates" have their transportation costs paid for was rejected, because the term is too vague.

Paragraph (f), formerly paragraph (g), was amended to focus on the purpose of the meeting, rather than the principal purpose of the coalition. If the principal purpose of a coalition meeting is to discuss or engage in legislative or political activities, program funds may not be used.

Section 1612.5 Permissible Activities on Behalf of Eligible Clients

The requirement in § 1612.5(b) that the program director document the need for relief to an eligible client has been deleted as unnecessary paperwork. Recipients are left to determine how best to properly prove compliance.

In paragraph (c) "eligible" was inserted before "client" to clarify that a client, in order to receive assistance from a program, must be "eligible" according to the requirements of Part 1611. A suggestion to drop the word "current" before "eligible client" was rejected. Language was also inserted adding "that client's" before "specific and distinct legal problems" in order to insure that the legal problems communicated are those of a specific, current, eligible client.

The type of testimony allowed before a legislative committee under this paragraph was broadened from testimony on the specific legal problems of the client to testimony *relating to* the legal problems of the client. The change accommodates the reality that when a person testifies before a legislative committee, it is difficult to limit the scope of inquiry.

The documentation requirements of paragraph (c) have also been changed. The requirement that the project director or chief executive make a prior determination that certain qualifications have been met to justify a communication under this paragraph has been changed to require the official's written approval after having determined that the delineated criteria have been met. This language better tracks the language in the appropriations act. One of the criteria to be considered has been moved from § 1612.5(e)(5) to § 1612.5(c)(3).

Several documentation requirements were deleted in paragraph (e). Still required are: (1) Preservation of the content of written communications, (2) the director's written approval of the communications, and (3) the client's retainer form. The information required in the retainer form has also been changed. Prior language required a statement by the client in his own words explaining the interest for which he seeks assistance. There was concern that the requirement would interfere with the attorney/client relationship. Because LSC experience has indicated that the retainer forms do not play a significant role in a monitoring effort, the provision has been amended to require only that the legal interest be identified by the client.

In paragraph (f) subsection (1) the requirement that the periodic reports to the governing body include a report on the exhaustion of appropriate judicial and administrative relief has been deleted to eliminate paperwork. The substantive requirement mandated by the appropriations act that judicial and administrative relief be explored and exhausted remains. If the Corporation should question a certain action, proof of judicial and administrative exhaustion may be required. The Boards of local programs are still encouraged to require such documentation.

In paragraph (g) the definition of "private relief bill" has been expanded to include a private relief bill "as defined by the legislative body to which the communication is addressed." This additional language recognizes that there are at least two types of private relief bills. One type provides for the direct compensation for claims against the government in cases where there is no other remedy. The second type waives sovereign immunity so that a citizen can take his case to court. Of course, LSC recognizes that an individual legislature may otherwise define bills affording private relief.

Two new subsections have been added to paragraph (h). Subsection (4) allows an employee to participate in meetings or serve on committees of bar associations as long as the participation does not include grassroots lobbying. Here, "bar associations" includes only those associations allowed under § 1612.3(a); that is, national, state and local bars that have a general purpose and general membership.

Subsection (5) allows a lawyer, pursuant to his duty to fully inform his client, to tell his client that he has a right to communicate with public officials.

Section 1612.6 Permissible Activities Undertaken Pursuant to Request of Public Officials

In paragraph (c) the words "specific concern" were added before the word "regulation". This use of this term is meant to indicate those instances where a public official requests information on a specific subject. This provision, for instance, excludes a request for information on a broad area such as the housing needs of the poverty population, but allows a response to a request for information on a specific issue such as whether public subsidy of low-rent housing or public subsidy of private home ownership is more costly. The intent of § 1612.6 is to allow informational responses by recipients. It is not the intent to allow recipient employees to become staff researchers for legislative offices.

Section 1612.7 Grassroots Lobbying

In paragraph (b), subsection (5) the word "allocable" replaces "incident". "Allocable" is considered to be a better accounting term. Paragraph (b) identifies the persons to whom communications paid for out of LSC funds may be sent. They may be sent to the Corporation, recipients, recipient staff and board members, private attorneys representing eligible clients, and eligible clients currently being represented on a matter directly related to the legislation. They may not be sent to the public at large or to eligible clients generally, unless all references in the communication to pending or proposed legislation are incidental to the topic of publication. A reference to legislation would not ordinarily be considered incidental if a newsletter discusses proposed agency regulations for many pages. On the other hand, an article that explains over several pages how agency hearings are held may correctly include a reference of several paragraphs to pending or proposed legislation that would change the procedure. However, if the incidental reference falls within the definition of "publicity and propaganda", it is a prohibited communication under this section.

Section 1612.10 Organizing

The last sentence in paragraph (a) has been added to make clear that the organizational provisions do not prohibit informational meetings among legal services staff. Getting people together to discuss common problems and concerns about different areas of law is not organizing, it is informational. Also, the prohibitions do not apply to organizations composed exclusively of eligible clients formed for the sole purpose of advising a legal services program about the delivery of legal services. Such an organization is a clients' council. Although the LSC Act prohibits organizing, it also encourages eligible client contribution and for years recipients have been permitted to organize clients' councils.

Section 1612.11 Accounting

All references to timekeeping and timekeeping requirements have been deleted. Although the Board has consistently expressed the view that timekeeping documentation should be required for documentation purposes, the Board decided to delete the requirements and will review the issue at a later date. The burden is still on recipients, however, to establish that all of their expenditures are proper. As a practical matter, this may require keeping time records.

Section 1612.12 Enforcement

The last sentence in § 1612.12(b) has been deleted. Instead, the reference to the Corporation's authority to recover costs under section 1630 has been integrated into the first sentence.

Section 1612.13 Private Funds

Consistent with its past policy and its understanding of pertinent statutory provisions, the Corporation believes, fundamentally, that private funds provided for the provision of legal assistance and LSC funds should be subject to the same restrictions. However, the Board has been persuaded to allow certain exceptions to this principle and to permit private funds to be used in the instances delineated in paragraphs (b), (c) and (d). Paragraph (b) allows a recipient to engage in certain legislative activities, but only if assistance is requested by a current eligible client. The recipient may not solicit the client. The legislative activities engaged in by the recipient must also be necessary to the provision of advice and representation to the client with respect to the client's legal rights and responsibilities. Thus, the recipient may bring the client's legal matter to a public official's attention, discuss solutions to the legal problem with the politician, write speeches, and work on committee reports. Grassroots lobbying is not, however, allowed under this provision.

Paragraph (c) allows a recipient to use private funds to pay reasonable annual dues to section 501(c)(3) organizations as long as the funds are not used for purposes prohibited by the Act and regulations adopted pursuant thereto.

Paragraph (d) allows the use of private funds to pay for publications that contain references to proposed or pending legislation. The two restrictions on the use of LSC funds for such publications delineated in § 1612.7 are not applicable here. Publications may be circulated to the public at large and to eligible clients generally, and references to pending or proposed legislation are not limited to being incidental to the topic of the publication. However, the publication may not contain any publicity or propaganda.

List of Subjects in 45 CFR Part 1612

Legal services, Restrictions on certain activities, Lobbying.

For the reasons set out in the preamble, 45 CFR Part 1612 is revised as follows:

PART 1612—RESTRICTIONS ON LOBBYING AND CERTAIN OTHER ACTIVITIES

Sec.

Authority: Secs. 1006(b)(5), 1007(a) (5), (6) and (7), 1011, 1008(e), Legal Services Corporation Act of 1974, *as amended* (42 U.S.C. 2996e(b)(5), 2996f(a) (5), (6) and (7), 2996j, 2996g(e)); Pub. L. 95-431, 92 Stat. 1021; Pub. L. 96-68, 93 Stat. 416; Pub. L. 96-536, 94 Stat. 3166; Pub. L. 97-161, 96 Stat. 22; Pub. L. 97-377, 96 Stat. 1874; Pub. L. 98-166, 97 Stat. 1071; Pub. L. 99-180, 99 Stat. 1185.

§ 1612.1 Definitions.

(a) "Adjudicatory proceeding", as used in this part, means a proceeding by a Federal, State, or local agency, commission, authority or government corporation which makes a determination that is of particular rather than general applicability, that affects private rights or interests, and that results in a final disposition, whether affirmative, negative, injunctive, or declaratory in form. The term does not include rulemaking but does include licensing.

(b) "Administrative lobbying", as used in this part, means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State or local official, agency, commission, authority or government corporation.

(c) "Administrative representation", as used in this part, means administrative lobbying carried out on behalf of an eligible client.

(d) "Grassroots lobbying", as used in this part, means publicity or propaganda intended or designed to support or defeat legislation pending before Congress or before State, county, or municipal legislative bodies, including any commission, authority or government corporation with rulemaking authority, or intended or designed to influence any decision by a Federal, State, county, or municipal administrative body or intended or designed to influence any decision by the electorate on a measure submitted to it for a vote.

(e) "Legal assistance activities", as used in this part, means any activity—

(1) Carried out during working hours or while on official travel;

(2) Using resources provided by the Corporation or a recipient, directly or through a subrecipient; or

(3) That, in fact, provides legal advice or representation to an eligible client.

(f) "Legislation", as used in this part, means any action or proposal for action by Congress, by a State legislature, or by any other body of governmental, municipal or local officials, whether elected or appointed, (including any commission, authority or government corporation with rulemaking authority) formulating a rule for the future or formulating a statement of general or particular applicability and future effect which is designed to implement, interpret, or prescribe law or public policy. The term includes, but is not limited to, action on bills, constitutional amendments, rules, regulations, the ratification of treaties and intergovernmental agreements, approval of appointments and budgets, adoption of resolutions not having the force of law, and approval or disapproval of actions of the executive. It does not include those actions of a legislative body which adjudicate the rights of individuals under existing laws (such as

action taken by a local council sitting as a Board of Zoning Appeals). "Legislature" as used herein does not include any Indian Tribal Council.

(g) "Legislative activities", as used in this part, means administrative, legislative, and grassroots lobbying and liaison activities; but does not include adjudicatory proceedings or negotiations directly involving a client's legal rights or responsibilities with respect to a particular application, claim or case.

(h) "Legislative lobbying", as used in this part, means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device directly or indirectly intended to influence any Member of Congress or any other Federal, State or local elected nonjudicial official—

(1) In connection with any Act, bill, resolution or similar legislation;

(2) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in a legislative capacity. The term "similar procedure" as used in this part refers to legislative consideration of matters which by law must be determined by a vote of the electorate or matters relating to the structure of government itself, such as reapportionment;

(3) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient or the Corporation; or

(4) In connection with the conduct of oversight proceedings concerning the recipient or the Corporation.

(i) "Legislative representation", as used in this part, means legislative lobbying carried out on behalf of an eligible client.

(j) "Liaison activities", as used in this part, means activities designed to facilitate administrative, legislative, or grassroots lobbying, and includes, but is not limited to, such activities as attending legislative sessions or committee hearings, gathering information regarding pending legislation, and analyzing the effect of pending legislation.

(k) "Political activities", as used in this part, means those activities intended either to influence the making, as distinguished from the administration, of public policy or to influence the electoral process. Political activities include favoring or opposing current or proposed public policy and also include administrative, legislative, and grassroots lobbying.

(l) "Public policy", as used in this part, means an overall plan embracing the general goals and acceptable procedures of any governmental body. Public policy includes but is not limited to statutes, rules, and regulations already enacted by a governmental body.

(m) "Publicity or propaganda", as used in this part, means any oral, written or electronically transmitted communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion, or, when taken as a whole, amounts to a direct suggestion to the public at large or to persons outside of the recipient program (other than a client or group of clients currently represented by a recipient with regard to a matter directly related to the legislation, or their counsel or co-counsel) to contact public officials in support of or in opposition to pending or proposed legislation, or to contribute to or participate in any demonstration, march, rally, fundraising drive, lobbying campaign, letter writing or telephone campaign for the purpose of influencing the course of such legislation. "Publicity or propaganda" does not include communications which are limited solely to neutral reporting of the content or status of pending or proposed legislation or the effect which such legislation may have on eligible clients or on their legal representation; provided, however, that such communications may not provide information about whom to contact or how to support or oppose such pending or proposed legislation.

(n) "Rulemaking", as used in this part, means an agency process for formulating, amending, or repealing legislation.

§ 1612.2 Legal assistance activities.

Except as hereinafter provided, the provisions of this part shall apply to all legal assistance activities carried out with funds made available by the Legal Services Corporation or private entities.

§ 1612.3 Legislative activities in general.

No funds made available by the Corporation shall be used to—

(a) Pay dues exceeding $100 per recipient per annum to any organization (other than a bar association), a purpose or function of which is to engage in political or legislative activities unless such dues are not used to engage in legislative activities for which LSC funds cannot be directly used. The burden shall be on each recipient to demonstrate through appropriate documentation that the prohibitions of this subparagraph have not been violated.

(b) Pay for transportation to legislative or administrative proceedings of persons other than employees, or law students directly engaged in the activities permitted under this section or witnesses entering appearances in such proceedings on behalf of clients of the recipient, except that this does not prohibit transportation of the client and the client's family where necessary and appropriate; this paragraph does not authorize payment of transportation expenses for employees not actually engaged in permitted legislative or administrative representation, unless they are being trained in how to handle administrative adjudicatory proceedings.

(c) Pay, in whole or in part, for the conduct of, or transportation to, an event if a primary purpose of the expenditure is to facilitate political or legislative activities or any activity which would be prohibited if conducted with funds made available by the Corporation;

(d) Pay for administrative or related costs associated with any activity prohibited by this part;

(e) Knowingly assist others to engage in legislative or political activities; provided, however, that this paragraph shall not be construed to prohibit the administrative or legislative representation permitted by § 1612.5; or

(f) Attend meetings of coalitions if a principal purpose of the meeting is to discuss or engage in legislative or political activities.

§ 1612.4 Legislative and administrative lobbying.

(a) None of the funds made available by the Legal Services Corporation may be used to pay for legislative lobbying as defined in § 1612.1(h)(2), (3), and (4).

(b) None of the funds made available by the Legal Services Corporation may be used to pay for legislative lobbying as defined in § 1612.1(h)(1) or for administrative lobbying as defined in § 1612.1(b), except as provided in §§ 1612.5 and 1612.6.

§ 1612.5 Permissible activities on behalf of eligible clients.

(a) An employee of a recipient may provide administrative representation for an eligible client in an adjudicatory proceeding or in negotiations directly involving that client's legal rights or responsibilities with respect to a particular application, claim or case.

(b) Notwithstanding anything in this part to the contrary, an employee of a recipient may provide legal assistance to a current eligible client in a rulemaking proceeding, consistent with

the practices of the particular administrative official or body, on a particular application, claim or case directly involving the client's legal rights or responsibilities.

(c) An employee of a recipient may, upon the request of a current eligible client or clients, communicate directly with Federal, State or local elected officials for the sole purpose of bringing that client's specific and distinct legal problems to the attention of such officials. This provision authorizes written or oral communications notifying public officials or legislative committees of the client's problems and of the legal obstacles to the client's obtaining judicial or administrative relief; testimony before pertinent legislative committees relating to the legal problems of the client; or the provision of a legal analysis of the client's problems to officials. It does not authorize publicity or propaganda or any efforts to persuade members of the public to support or oppose the proposed legislation. Such communications may be made only if the project director or chief executive of such recipient has given prior written approval for such communications after having determined:

(1) That the client or each such client is in need of relief that can be provided by the official or the legislative body with which the official is associated;

(2) That appropriate judicial and administrative relief has been exhausted; and

(3) That such communications are not the result of participation in a coordinated effort to communicate with elected officials on the subject matter.

(d) No employee shall solicit a client for the purpose of making legislative or administrative representation possible.

(e) In connection with each communication authorized by paragraph (c) of this section, the project director shall maintain the following documentation:

(1) The content of each such communication if the communication is in writing;

(2) The director's written approval of such communication;

(3) A retainer in the form specified in § 1611.8, setting forth the specific legal interest of each client as identified by the client at whose request the communication was undertaken.

(f) The governing body of a recipient shall adopt a policy to guide the director of the recipient in determining when to approve a communication to a Federal, State or local official under paragraph (e) of this section. The policy adopted shall:

(1) Consistent with restrictions on disclosure of confidential information imposed by applicable law, require periodic reports to the governing body on the communications approved;

(2) Ensure that staff does not solicit requests or undertake communications with elected officials nor participate in a coordinated effort to provide communications on a particular subject;

(3) Require that, in determining the amount of effort to be expended in preparing the communication, the director take into account the recipient's priorities in resource allocation.

(g) Notwithstanding the prohibition in paragraph (c) of this section of communications to elected officials that do more than bring a problem to the official's attention, a project director may approve communications to elected officials requesting introduction of specific "private relief bills" as defined by the legislative body to which the communication is addressed, or, if not defined, for purposes of this part means bills allowing specifically named persons or groups to make or to be compensated for claims against a government for which there is no other remedy. The documentation required under paragraph (e) of this section shall be maintained in connection with such communications.

(h) Nothing in this or any other section is intended to prohibit an employee from—

(1) Communicataing with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations practices, or policies;

(2) Informing a current client about a new or interpretation of the agency's rules, regulations, practices, or policies.

(2) Informing a current client about a new or proposed statute, executive order, or administrative regulation consistent with the provisions of § 1612.7;

(3) Communicating directly or indirectly with the Corporation for any purpose;

(4) Participating in meetings or serving on committees of bar associations, provided such participation does not include grassroots lobbying; or

(5) Informing a client of the client's right to communicate directly with an elected official.

§ 1612.6 Permissible activities undertaken pursuant to request of public officials.

(a) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these regulations or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, an employee may respond to a request from a governmental agency, elected official, legislative body, committee, or member made to the employee or to a recipient to testify, draft, or review legislation, or to make representations to such agency, official, body, committee, or member on a specific matter. This exception for responses to officials does not authorize communication with anyone other than the requesting party or an agent or employee of such party.

(b) No employee of the recipient shall, directly or indirectly, solicit or arrange a request from an official to testify or otherwise make representations in connection with legislation.

(c) Recipients shall adopt procedures and forms to document compliance with this section. Such documentation shall include contemporaneous documentation by the recipient which states the type of representation or assistance requested by the public official and identifies the specific concern, regulation, legislation, or executive or administrative order to be addressed.

§ 1612.7 Grassroots lobbying.

(a) No funds made available by the Corporation or by private entities shall be used for grassroots lobbying.

(b) No funds made available by the Corporation or by private entities shall be used to support the preparation, production, or dissemination of any article, newsletter, or other publication or written matter or other form of mass communication which contains any reference to proposed or pending legislation unless—

(1) The publication does not contain any publicity or propaganda;

(2) The publication does not contain directions on how to lobby generally or on particular legislation;

(3) The recipient's project director, or his or her designee, has reviewed each publication produced by the recipient prior to its dissemination for conformity to these regulations;

(4) The recipient provides a copy of any such material produced by the recipient to the Corporation within 30 days after publication; and

(5) Such funds are used only for costs allocable to the preparation, production, or dissemination of such publications to the Corporation, recipients, recipient staff and board members, private attorneys representing eligible clients, and eligible clients currently represented by a recipient with regard to a matter directly related to the legislation; but if the recipient circulates

the publication to the public at large, or eligible clients generally, any reference to pending or proposed legislation must be incidental to the topic of the publication.

§ 1612.8 Public demonstrations and activities.

(a) While carrying out legal assistance activities and while using resources provided by the Corporation, by private entities or by a recipient, directly or through a subrecipient, no person shall—

(1) Participate in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation; or

(2) Encourage, direct, or coerce others to engage in such activities, or otherwise usurp or invade the rightful authority of a client to determine what course of action to follow.

(b) While carrying out legal assistance activities and while using resources provided by the Corporation, by private entities, or by a recipient, directly or through a subrecipient, no person shall at any time engage in or encourage others to engage in—

(1) Any rioting or civil disturbance;

(2) Any activity in violation of an outstanding injunction of any court of competent jurisdiction;

(3) Any other illegal activity; or

(4) Any intentional identification of the Corporation or any recipient with any political activity.

(c) Nothing in this section shall prohibit an attorney from—

(1) Informing and advising a client about legal alternatives to litigation or the lawful conduct thereof; or

(2) Taking such action on behalf of his client as may be required by his professional responsibilities or applicable law of any State or other jurisdiction.

§ 1612.9 Training.

(a) No funds made available by the Corporation or by private entities may be used for the purpose of supporting or conducting training programs that—

(1) Advocate particular public policies; or

(2) Encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes or demonstrations, or the development of strategies to influence legislation or rulemaking; or

(3) Disseminate information about such policies or activities.

(b) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these regulations or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, nothing in this section shall be construed to prohibit any training of attorneys or paralegal personnel necessary for preparing them—

(1) To provide adequate legal assistance to eligible clients;

(2) To advise any eligible client as to the nature of the legislative process in general as opposed to discussing a lobbying strategy for a particular bill;

(3) To inform any eligible client of his rights under any statute, order or regulation already enacted, or about the meaning or significance of particular bills; or

(4) To understand what activities are permitted or prohibited under relevant laws and regulations.

(c) No funds made available by the Corporation or by private entities may be used to pay for participation by any person or organization in training with regard to political or legislative activities, except for adjudicatory proceedings, or with regard to areas in which program involvement is prohibited pursuant to the provisions of the Act, of other applicable Federal law, or of Corporation regulations, guidelines or instructions.

§ 1612.10 Organizing.

(a) No funds made available by the Corporation or by private entities may be used to initiate the formation, or to act as an organizer of any association, federation, labor union, coalition, network, alliance, or any similar entity. No funds may be employed for any communication or any meeting to advocate that anyone organize or join any organization. The term "communication" does not include advice given an individual client during the course of legal consultation. This paragraph shall not be construed to apply to informational meetings attended primarily by persons engaged in the delivery of legal services at which information about new developments in poverty law and pending cases or matters are discussed and shall not apply to organizations composed exclusively of eligible clients formed for the sole purpose of advising a legal services program about the delivery of legal services.

(b) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these regulations or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, this section shall not be interpreted to prevent recipients and their employees from providing legal advice or assistance to eligible clients who desire to plan, establish or operate organizations, such as by preparing articles of incorporation and by-laws.

§ 1612.11 Accounting.

(a) Recipients shall maintain separate records documenting the expenditure of funds for legislative activities. These records shall document the direct and indirect expenses, and the sources of the funds supporting all legislative activities, regardless of the sources of the funds employed.

(b) Recipients shall submit quarterly reports describing their legislative activities conducted pursuant to these regulations, together with such supporting documentation as specified by the Corporation, consistent with restrictions on disclosure of confidential or privileged information imposed by applicable law of any state or other jurisdiction. The Corporation may at any time specify the form in which these reports are to be submitted.

§ 1612.12 Enforcement.

(a) The Corporation shall have authority—

(1) To suspend or terminate the employment of an employee of the Corporation who violates the provisions of this part; and

(2) To impose such sanctions as are appropriate (including but not limited to recovery of questioned costs) for the enforcement of this regulation against a recipient which fails to ensure that its employees refrain from activities proscribed by the Act or by this part.

(b) The Corporation shall have authority in accordance with the procedures set forth in Parts 1606, 1618, 1623, 1625 and 1630 of these regulations to recover costs, suspend or terminate financial assistance, or deny refunding to a recipient which fails to ensure that its employees refrain from activities proscribed by the Act or by this part.

(c) A recipient shall—

(1) Advise employees about their responsibilities under this part; and

(2) Establish procedures for determining whether an employee has violated a provision of this part; and shall establish a policy, a copy of which shall be transmitted to the Corporation, for determining the appropriate sanction to be imposed for a violation, including—

(i) Administrative reprimand if a violation is found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension and termination of employment; and

(iii) Other sanctions appropriate for the enforcement of this regulation; and

(3) Inform the Office of Monitoring, Audit, and Compliance within 30 days of imposing any sanction on any person for violation of this part; and

(4) Make available to the Corporation the records of its investigation of any allegation of violations whether or not any sanctions were imposed. Such records shall be submitted on a quarterly basis to the Office of Monitoring, Audit, and Compliance.

§ 1612.13 Private funds.

(a) A recipient may use funds provided by private sources to engage in legislative or administrative lobbying if a government agency, elected official, legislative body, committee, or member thereof is considering a measure directly affecting activities under the Act of the recipient or the Corporation.

(b) A recipient may use private funds to engage in legislative activities (except for grassroots lobbying) at the request of a current eligible client of a recipient, to the extent such activities are necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities, but no recipient shall solicit a client for the purpose of making such representation possible.

(c) A recipient may use private funds to pay reasonable annual dues to organizations which are tax exempt under section 501(c)(3) of the Internal Revenue Code, provided, however, that such funds may be used only for purposes otherwise permitted by the Act and all regulations adopted pursuant thereto.

(d) Private funds provided for the provision of legal assistance to eligible clients may be used to support the preparation, production, or dissemination of any article, newsletter, or other publication or written matter or other form of mass communication which contains references to proposed or pending legislation so long as the publication does not contain any publicity or propaganda.

Timothy B. Shea,

General Counsel.

[FR Doc. 87-17347 Filed 7-28-87; 9:41 am]

BILLING CODE 6820-35-M

LEGAL SERVICES CORPORATION

45 CFR Part 1612

Restrictions on Lobbying and Certain Other Activities

AGENCY: Legal Services Corporation.

ACTION: Request for comments.

SUMMARY: Part 1612 is published as a final rule elsewhere in this issue with an effective date of August 28, 1987. However, LSC intends to consider further the rule's restrictions on the use private funds set out in § 1612.13. Comments on § 1612.13 are, therefore, requested.

DATE: Comments on § 1612.13 should be submitted on or before August 28, 1987. Comments may be sent to the Office of General Counsel, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20024–2751, (202) 863–1823.

FOR FURTHER INFORMATION CONTACT: Timothy B. Shea, General Counsel, (202) 863–1823.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue Part 1612 is published as final in the **Federal Register**. Section 1612.13 of that rule deals with the permissible uses of private funds by LSC recipients.

As explained in the preamble to the final rule, the Corporation fundamentally believes that private funds provided for the provision of legal assistance should be subject to the same restrictions as LSC funds. However, as a result of its deliberations, the Board has been persuaded to allow four exception to this principle which are set out in paragraphs (a)–(d). Pursuant to a recent Congressional request, the LSC Board intends to further consider comments on the private funds issue. Comments should be submitted to the Corporation on or before thirty days after the publication of this request for comments in the **Federal Register**.

Timothy B. Shea,

General Counsel.

[FR Doc. 87–17348 Filed 7–28–87; 9:41 am]

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