10-29-87
Vol. 52 No. 209
Pages 41551-41684

Federal Register

Thursday
October 29, 1987

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

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202-523-5239.

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Rules and Regulations

Federal Register
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-62-AD; Amdt. 39-5758]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires inspection for damage and cracking, and repair or replacement, as necessary, of the aft pressure bulkhead. This amendment is prompted by inspection reports and the results of recent testing by the manufacturer. It has been determined that to maintain an adequate level of safety, the aft pressure bulkhead must be inspected. Failure to detect and repair damage and cracks could result in possible rapid depressurization of the airplane.

DATES: Effective December 10, 1987.

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

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch, ANM-120S; telephone (206) 431-1925. 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 requiring inspection of certain Boeing Model 747 for damage and cracking, and repair or replacement, as necessary, of the aft pressure bulkhead, was published in the **Federal Register** on June 11, 1987 (52 FR 22330).

Since the date of publication of the NPRM, the manufacturer has revised Service Bulletin 747-53-2275 to include two additional non-U.S. registered airplanes. The final rule has been written to include these airplanes in the list of those affected. The remainder of the AD references the original issue of the service bulletin, or later FAA-approved revisions. Since these airplanes are not subject to this rule, this change does not impose an additional burden on any operator. It does, however, serve to notify the relevant foreign airworthiness authorities of the unsafe condition affecting these airplanes.

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

The Air Transport Association (ATA) of America commented on behalf of two operators, requesting that the initial compliance time for the inspections of paragraph A. of the NPRM be revised from 500 landings to 1,000 landings. The ATA stated that one operator would have to inspect 40% of its fleet outside of a scheduled "C" check if the 500 landing initial compliance time were adopted. It further stated that the extensive fatigue testing conducted by The Boeing Company confirms that the 1,000 landing compliance time is satisfactory. The FAA agrees that initial compliance with the AD can be extended somewhat. The FAA's objective in establishing the initial compliance time for the inspections of paragraph A. is to have them conducted in a reasonably short time span in order to establish that there is no unknown accidental damage in the fleet. The duration of the time period proposed in the NPRM was based largely on engineering judgment. The FAA has determined that the initial compliance time can be extended to 750 landings without compromising safety, and has revised the final rule accordingly.

Several commenters stated that paragraph A. of the proposed rule would penalize operators who are already conducting the repeat inspection in accordance with the Boeing Service Bulletin 747-53-2275, dated March 26, 1987, at a 2,000 landing interval. These operators would be required to perform an extra inspection in order to comply with the AD, even though they are already meeting the intent of the proposed rule. This situation arises because the proposed rule states that the first inspection must be performed "within 500 landings after the effective date of this AD, unless accomplished within the last 500 landings * * *" The FAA concurs that this aspect of the proposed rule would impose an unnecessary burden on operators. Therefore, the final rule has been revised to require that airplanes subject to the 2,000 landing interval repeat inspection, be initially inspected within 750 landings after the effective date, unless the inspection was previously accomplished within the last 1,250 landings. Operators who are already conducting the 2,000 landing interval repeat inspection, therefore, will not be subject to any disruption to their current maintenance schedule.

One commenter requested that the repeat inspection interval of 2,000 landings specified in paragraph B. of the NPRM be extended to 3,000 landings for its Boeing Model 747SR airplanes. The justification given for this change is that the operator's airplane operates at an average cabin pressure differential of 8 psi, which is less than the 8.9 psi differential pressure assumed by the manufacturer in computing the crack growth rates used to establish the inspection threshold and intervals. The commenter cited the manufacturer's data, which indicated that the inspection intervals can be multiplied by a factor of 1.5 for the 8 psi operation, resulting in the 3,000 landings inspection interval it has requested. The FAA does not agree that the repeat inspection interval should be extended. The repeat inspection intervals specified in the NPRM are set for the purpose of detecting a crack, whether associated with accidental damage (large crack) or fatigue, before it grows to a critical length. Although average crack growth rates become lower as an airplane's true equivalent average operating pressure differential becomes lower, implying

that inspections are required less frequently, an operator's determination of an aircraft's eligibility for the increased inspection interval will necessarily be based on projections of an equivalent average pressure differential. Since those projections are inherently uncertain, the FAA has determined that it is imprudent to allow the use of a factor on inspection times greater than 1.2 based on an airplane's projected equivalent average pressure differential.

However, if an airplane is limited in such a manner that the maximum operational pressure will not exceed 8.0 psi, then a 1.5 factor would be appropriate. This could conceivably be accomplished by modifying the pilot's cabin altitude selector and limiting the maximum operational altitude, with a flight manual restriction, to 38,600 feet, the altitude at which an 8.0 psi differential pressure is reached. The FAA will give consideration to alternate methods of compliance of this nature which are submitted in accordance with paragraph H. of the final rule.

Further, our evaluation of this request has demonstrated the need for clarification on the application of the 1.2 factor to the inspection times of the Model 747SR airplanes. Paragraph H. of the NPRM (paragraph G. in the final rule) has been rewritten to specify that the factor applies only to those airplanes projected to have an equivalent average pressure differential of 8.6 psi or less. The paragraph has also been revised to give some guidance on how compliance is to be found.

The National Transportation Safety Board commented that it fully supports this rulemaking action and noted that the proposed AD is consistent with safety recommendations that the Board has made to the FAA with regard to the structural integrity of the Model 747 aft pressure bulkhead.

One commenter requested that the proposed rule be revised to allow operators having Group 3 airplanes (as identified in the referenced service bulletin) with protective shields on the forward side of their bulkhead, the option of inspecting the aft pressure bulkhead from the aft side only, at 1,000 landing intervals, as is allowed for Group 3 airplanes without the protective shields. The FAA agrees that this request is justified. The FAA had not intended to eliminate the option of inspecting from the aft side only when protective shields are installed, but, rather, had intended to add another inspection option for this airplane configuration. Therefore, the AD has been rewritten to clarify that Group 2 and 3 airplanes equipped with protective shields on the forward side of the aft pressure bulkhead have two inspection options. This has resulted in the combining of paragraphs B. and C. of the NPRM into paragraph B. of the final rule.

One commenter noted that the nondestructive test (NDT) inspections of paragraph D. of the NPRM (paragraph C. of the final rule) are conducted at 4,000 landing repeat inspection intervals while the close visual inspections of paragraph E. of the NPRM (paragraph D. of the final rule) are conducted at 7,000 landing repeat inspection intervals. This commenter stated that nondestructive test methods are more accurate and reliable than close visual inspections. Thus, if close visual inspections per paragraph E. of the NPRM are sufficient enough to warrant a 7,000 landing repeat inspection interval, the NDT inspections per paragraph D. of the NPRM should be sufficient to warrant the same or greater repeat inspection intervals. The FAA does not agree with this comment. The repeat inspection interval in paragraph D. of the NPRM is set in order to detect cracks that are expected to grow at a relatively high rate. Nondestructive test inspection methods are used to detect these. The repeat inspection interval in paragraph E. of the NPRM is set to detect cracks that are expected to grow at a relatively low rate. Detailed visual inspections are used to detect these. The repeat inspection intervals for both inspections are established so cracks will be detected before they grow to a critical length. The different inspection intervals result in approximate equivalent probabilities of finding a crack before it becomes critical, considering the inspection technique employed, the crack growth rate expected, and the critical crack length appropriate for the individual design details.

One commenter stated that inspections already conducted in accordance with another AD (86-16-05) should suffice as the initial inspection required by paragraphs D. and E. of the NPRM and compliance with these paragraphs should be phased in with the next required inspection per AD 86-16-05. The FAA does not concur. Some overlap may exist between the requirements of AD 86-16-05 and this AD, but the two rules are not identical. This AD already contains statements to the effect that initial compliance inspections are required unless already accomplished within a specified time period. These statements are intended to allow operators to take credit for such earlier conducted inspections and, therefore, no change to the proposed rule is considered necessary.

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 following rule with the changes previously noted.

It is estimated that 210 airplanes of U.S. registry will be affected by this AD, that it will take approximately 356 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 the AD on U.S. operators is estimated to be $2,990,400 for the initial inspection cycle.

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 747 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been p.laced 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:

Boeing: Applies to Model 747 series airplanes listed under Groups 1, 2, 3, and 4 in Boeing Service Bulletin 747-53-2275, Revision 1, dated August 13, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracking or accidental damage to the aft pressure bulkhead, accomplish the following:

A. Within 750 landings after the effective date of this AD, unless accomplished within the last 1,250 landings for airplanes subject to a 2,000 landing repeat inspection interval in accordance with paragraph B., below, or unless accomplished within the last 250

landings for airplanes subject to a 1,000 landing repeat inspection interval in accordance with paragraph B., below, perform a detailed visual inspection, in accordance with Boeing Service Bulletin 747–53–2275, dated March 26, 1987, or later FAA-approved revisions, of the aft side of the entire Body Station (BS) 2360 aft pressure bulkhead for damage such as dents, tears, nicks, gouges, or scratches; cracks at splices, doublers, and around the Auxiliary Power Unit (APU) pressure pan cutout; and, for Group 4 airplanes only, inspect from the forward side, the area adjacent to the window cutout for damage or cracks.

B. After initial compliance with paragraph A. continue to inspect as follows:

1. For Group 1 airplanes, repeat the inspections required by paragraph A., above, at intervals not to exceed 2,000 landings.

2. For Groups 2 and 3 airplanes, repeat the inspections required by paragraph A., above, at intervals not to exceed 1,000 landings or optionally, if applicable:

a. For Group 2 airplanes that operate the entire interval with aft lavatory complexes or galleys adjacent to bulkheads, repeat the inspections required by paragraph A., above, at intervals not to exceed 2,000 landings.

b. For Groups 2 and 3 airplanes that operate the entire interval with an intact protective shield on the lower half of the forward side of the bulkhead, repeat the inspections required by paragraph A., above, at intervals not to exceed 2,000 landings and perform a detailed visual inspection of the protective shield for damage in accordance with procedures described in the Boeing Service Bulletin 747–53–2275, dated March 26, 1987, or later FAA-approved revisions, at intervals not to exceed 1,000 landings. If damage is found to the protective shield that exceeds the limits indicated in Boeing Service Bulletin 747–53–2275, dated March 26, 1987, or later FAA-approved revision, perform the inspection required by paragraph A., above, prior to further flight.

3. For Group 4 airplanes, repeat the inspections required by paragraph A., above, at intervals not to exceed 1,000 landings.

C. Within 750 landings after the effective date of this AD or prior to the accumulation of 20,000 landings, whichever occurs later, unless accomplished within the last 3,250 landings, and at intervals thereafter not to exceed 4,000 landings, perform an eddy current, ultrasonic, and X-ray inspection of the aft side of the BS 2360 aft pressure bulkhead for cracks in accordance with Boeing Service Bulletin 747–53–2275, dated March 26, 1987, or later FAA-approved revision.

D. Within 750 landings after the effective date of this AD or prior to the accumulation of 20,000 landings, whichever occurs later, unless accomplished within the last 6,250 landings, and at intervals thereafter not to exceed 7,000 landings perform a detailed visual inspection of the BS 2360 aft pressure bulkhead web to Y-ring lap joint area between radial stiffeners from the forward side of the bulkhead for cracks in accordance with Boeing Service Bulletin 747–53–2275, dated March 26, 1987, or later FAA-approved revision.

E. If any cracking or damage is found as a result of inspections required by this AD, repair prior to further flight in accordance with Boeing Service Bulletin 747–53–2275, dated March 26, 1987, or later FAA-approved revisions.

F. For the purpose of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 2.0 pounds-per-square-inch (psi).

G. For Model 747SR airplanes only:

1. The initial inspection thresholds specified in this AD may be multiplied by a 1.2 adjustment factor provided that the past and future mixed operations at full and reduced cabin pressure differentials, until the time of the initial inspection, result in an equivalent average pressure differential of 8.6 psi or less.

2. The reinspection intervals specified in this AD may be multiplied by a 1.2 adjustment factor provided that the projected equivalent average pressure differential for mixed operations at full and reduced cabin pressure differentials, until the time of the next scheduled reinspection, is 8.6 psi or less. Compliance with this subparagraph must be repeated at the time of each reinspection if the 1.2 adjustment factor is applied to the next reinspection interval.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

I. 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 inspections and/or modifications required by this AD.

J. Installation of new and improved tear straps, center plate, and APU doubler structure in accordance with Boeing Production Revision Record (PRR) 80490, or an FAA-approved equivalent, constitutes terminating action for the inspections required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 10, 1987.

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

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–24979 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–73–AD; Amdt. 39–5761]

Airworthiness Directives; Aerospatiale Model ATR–42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR–42 series airplanes, which requires reinforcement of the seat pan structure of cabin attendant's seats manufactured by SOCEA, in order to prevent structural failure of the seat pan. This amendment is prompted by reports of an incident of breakage of a cabin attendant's seat. Failure of the seat may cause injury to a member of the flightcrew.

EFFECTIVE DATE: December 16, 1987.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, 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 M. 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 a modification to reinforce the cabin attendant's seat pan, was published in the **Federal Register** on July 14, 1987 (52 FR 26348).

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

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

It is estimated that 3 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 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 $360.

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 ($120). 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 Reguations 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:

Aerospatiale: Applies to Model ATR–42–300 series airplanes fitted with SOCEA flight attendants' seats, Part Numbers 2510132 and 2510137, certificated in any category. Compliance is required within 30 days after the effective date of this AD, unless already accomplished.

To prevent collapse of the seat pan of the flight attendant's seats, accomplish the following:

A. Modify seats in accordance with Aerospatiale Service Bulletin No. ATR42–25–0003, Revision 2, dated November 5, 1986, or SOCEA Service Bulletin No. 25–73, dated June 1, 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 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, 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 December 16, 1987.

Issued in Seattle, Washington, on October 22, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–24975 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–46–AD; Amdt. 39–5759]

Airworthiness Directives; Boeing Model 747 Series Airplanes Modified With Heath Tecna "Superbins" in Accordance With STC SA2365NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes equipped with Heath Tecna "Superbins", which requires chafe protection for wire bundles located between ceiling panels and Heath Tecna "Superbin" overhead bins. This amendment is prompted by reports of chafing and/or burning of these wire bundles, caused by contact between the outboard edges of the ceiling panels and the bin back panels. This condition, if not corrected, could result in fires.

EFFECTIVE DATE: December 10, 1987.

ADDRESSES: The applicable service information may be obtained from Heath Tecna Aerospace Company, 19819 84th Avenue South, Kent, Washington 98032. 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. Terry Rees, Aerospace Engineer, Systems and Equipment Branch, ANM–130S; telephone (206) 431–1941. 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 wire bundle chafe protection on Boeing Model 747 series airplanes modified with Heath Tecna "Superbins" in accordance with STC SA2365NM, was published in the **Federal Register** on May 21, 1987 (52 FR 19168).

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 Air Transport Association (ATA) of America indicated that one operator has already inspected its fleet, and is implementing an alternate solution, coordinated with Heath Tecna, which involves some wire rerouting. The ATA believes that this is the only operator affected, and that this alternate solution is superior to that specified in the service bulletin. Therefore, the ATA requests that the proposed rule be withdrawn.

The FAA does not concur for the following reasons:

(a) The operator referenced by the commenter is actually only one of several affected U.S. operators, none of whom responded to the NPRM.

(b) The FAA has determined that a wire rerouting solution, as proposed by the commenter, may not be a complete solution, since there may be insufficient available slack at all affected locations to enable complete rerouting. However, if the operator wishes to demonstrate an acceptable level of safety with an alternate means of compliance, provision is made for this type of request in paragraph B of the AD.

(c) The commenter has evidently misunderstood the NPRM to require trimming the ceiling panels as the only required action. In fact, the NPRM specified either trimming the panels or installing spacers on the overhead bins. Heath Tecna has advised that the commenter's concern regarding possible recurrence of the problem upon subsequent replacement of trimmed panels with untrimmed panels has merit only if the new ceiling panels are improperly installed.

(d) In accordance with existing provisions of the bilateral airworthiness agreements, the FAA must issue the AD to advise the foreign regulatory agencies that an unsafe condition may exist or develop on airplanes registered in their countries.

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, as proposed.

It is estimated that 57 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. The average cost of materials per airplane is

estimated to be $84. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,748.

For the reasons discussed above, the FAA has determined that regulation is not considered to be major under Executive Order 12291 or significant under 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 rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 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:

Heath Tecna: Applies to Boeing Model 747 airplanes, certificated in any category, that have been modified in accordance with Supplemental Type Certificate SA2365NM, listed in Heath Tecna Service Bulletin 74000-25-007, dated March 6, 1987. Compliance required as indicated, unless previously accomplished.

To minimize fire hazard caused by chafing of ceiling light wire bundles, accomplish the following:

A. Within 60 days after the effective date of this AD, inspect lighting wire bundles which rest atop the Heath Tecna "Superbins" for evidence of damage and chafing, and repair, if necessary, before further flight; and accomplish either 1. or 2., below:

1. Install spacers to protect lighting wire bundles from chafing in accordance with Heath Tecna Service Bulletin 74000-25-007, dated March 6, 1987, or later FAA-approved revision; or

2. Trim the outboard edges of the ceiling panels in accordance with paragraph 2C of Heath Tecna Service Bulletin 74000-25-007, dated March 6, 1987, or later FAA-approved revision.

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, Seattle Aircraft Certification Office, 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 Heath Tecna Aerospace Company, 19819 84th Avenue South, Kent, Washington 98032. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective December 10, 1987.

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

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24978 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-ASW-43; Amdt. 39-5730]

Airworthiness Directives; Schweizer Aircraft Corp. Model 269 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which imposes a daily visual check of the tail rotor blade abrasion strip for any bond separation on the tail rotor blade on Schweizer Aircraft Corporation, Model 269 series helicopters. The AD also requires a one-time dye penetrant inspection and a tap test of the abrasion strip. Separation of the abrasion strip from the tail rotor blade could lead to an unbalance condition with loss of the tail rotor assembly and subsequent loss of the helicopter.

DATE: Effective date: November 9, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 9, 1987.

Compliance: Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESS: The applicable service information may be obtained from Schweizer Aircraft Corp., P.O. Box 147, Elmira-Corning Regional Airport, Elmira, New York 14902.

FOR FURTHER INFORMATION CONTACT: Joseph E. Chrastil, ANE-172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone number (516) 791-6221.

SUPPLEMENTARY INFORMATION: The FAA has determined after reviewing reports of inspections of the tail rotor blades that the abrasion strip may become partly debonded from the blade. Between 10 to 15 tail rotor blades have been found in this condition with the worse case reported to have approximately 70 percent bond separation. If an abrasion strip separates from a tail rotor blade, it will cause an unbalance which could lead to loss of the tail rotor assembly and loss of the helicopter. Since the condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires initial and recurring inspections of the total rotor assembly leading edge abrasion strips on Schweizer Aircraft Corporation Model 269 series helicopters.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the FAA amends § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Schweizer Aircraft Corporation (Hughes Helicopters, Inc.): Applies to all Model 269 series helicopters certificated in any category, equipped with Hughes Helicopters, Inc., tail rotor blades Part Numbers (P/N) 269A6035-21 and -23.

Compliance is required as indicated, unless already accomplished.

To prevent possible loss of tail rotor control, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD, perform a one-time dye penetrant and tap test inspection on the affected tail rotor blades with the following serial numbers (S/N's) in accordance with procedures detailed in paragraphs (a) through (h) of the "PROCEDURES" section of Part II of Schweizer Service Information Notice N-183.1 dated February 24, 1987.

Blade P/N's	Blade S/N's affected
269A6035-21	0548 through 0978
269A6035-23	0001 through 3394

(b) Before the first flight of each day after the effective date of this AD, visually check each tail rotor blade abrasion strip for any evidence of bond failure along the entire abrasion strip/airfoil bond line and at the blade tip using the procedure specified in Part I of Schweizer Service Information Notice N-183.1 dated February 24, 1987, or an FAA-approved equivalent.

(c) If during the check in Part I debonding along the abrasion strip/bond line or blade tip is suspected, inspect the tail rotor blade prior to further flight in accordance with Part II, paragraphs (a) through (h), of Schweizer Service Information Notice N-183.1 dated February 24, 1987, or an FAA-approved equivalent.

(d) Where void indication or bond separation is noted, remove the tail rotor blade from service prior to further flight.

(e) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

(f) The visual check specified in Part 1, a, of the Service Bulletin and required by paragraph (b) of this AD may be performed by the pilot and must be recorded in accordance with FAR § 43.9.

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

The inspection procedure shall be done in accordance with Schweizer Service Information Notice N-183.1 dated February 24, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1) and 1 CFR Part 51. Copies may be obtained from Schweizer Aircraft Corp., P.O. Box 147, Elmira-Corning Regional Airport, Elmira, New York 14902. Copies may be inspected at the Office of Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective on November 9, 1987.

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

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-24982 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-CE-31-AD; Amdt. 39-5756]

Airworthiness Directives; SOCATA-Groupe Aerospatiale Model TB-10, 20, and 21 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to SOCATA-Groupe Aerospatiale Model TB-10, 20, and 21 airplanes, which requires inspection of fuselage frame number 9 for cracks, and replacement thereof if cracks are found. Cracks 2" long have been found in the frames of two airplanes. If this condition is not corrected, it can result in structural failure and loss of pitch control. This action will detect cracks and replace fuselage frame Number 9 before failure occurs.

DATE: Effective date: November 2, 1987.

Compliance: As prescribed within the body of the AD.

ADDRESSES: SOCATA-Groupe Aerospatiale Alert Service Message AV/TB No. 2669/87 dated September 18, 1987, and Direction Generale de l'Aviation Civile (DGAC) Airworthiness Directive (AD) T-87-141(A) dated September 18, 1987 applicable to this AD may be obtained from Mr. Bernard Veyssiere, U.S. Product Support Manager, SOCATA-Groupe Aerospatiale, U.S. Marketing and Product Support, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; or SOCATA-Groupe Aerospatiale, B.P. 38, 65001 Tarbes, France; Telephone 62 51 7300 (Telex 520828F); or Mr. John P. Dow Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932. This information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: Routine visual inspection of SOCATA Model TB-9, 10, 20, and 21 airplanes revealed 2" cracks on fuselage frame number 9 on two airplanes used for training in France. These cracks were found in the area of the frame where the elevator/horizontal stabilizer attachment brackets are installed. If these cracks remain unrepaired, failure of the frame and subsequent loss of pitch control is likely, resulting in loss of the airplane. The cracking can be detected by visual inspection and repaired by replacement of fuselage frame number 9. At this time the FAA has not been able to obtain from SOCATA critical crack length, crack propagation rate, or a fix other than replacement of the fuselage frame. SOCATA-Groupe Aerospatiale has issued Alert Service Message AV/TB No. 2669/87 dated September 18, 1987 which describes initial and recurring visual or dye penetrant inspection for cracks, and replacement of fuselage frame Number 9 if a crack is found. The Direction Generale de l'Aviation Civile (DGAC), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in France, has classified this Alert Service Message AV/TB No. 2669/87 dated September 18, 1987, and DGAC AD No. T-87-141(A) dated September 18, 1987, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under French registration, this action has the same effect as an AD on airplanes certificated for operation in

the United States. The FAA relies upon the certification of DGAC combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Alert Service Message AV/TB No. 2669/87 dated September 18, 1987, and the mandatory classification of this Alert Service Message by the DGAC in their AD CN-T-87-141(a). Based on the foregoing, the FAA has determined that the condition described herein is an unsafe condition that may exist or develop on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring initial and recurrent visual and dye penetrant inspection of fuselage frame Number 9, and replacement of fuselage frame Number 9 if a crack is found on SOCATA-Groupe Aerospatiale Model TB-10, 20, and 21 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued Immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

SOCATA-Groupe Aerospatiale: Applies to Model TB 10, TB 20, and TB 21 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD unless already accomplished.

To prevent structural failure of the horizontal stabilizer/elevator attachment, and loss of pitch control, accomplish the following:

(a) Upon the accumulation of 700 hours total time-in-service (TIS) or within the next 25 hours TIS, whichever comes later, visually inspect for cracks on the forward and aft surface of fuselage frame Number 9 (SOCATA P/N TB 10.21.010.102) in the area of the hinge and attachment fittings of the horizontal stabilizer/elevator. If the existence of a crack is uncertain, remove the horizontal stabilizer and attachment fittings and perform a dye penetrant inspection of the area.

(i) If no cracks are found as a result of the inspection in paragraph (a) above, repeat the inspection at intervals not to exceed 100 hours TIS thereafter.

(ii) If cracks are found as a result of any of the above inspections, prior to further flight replace the cracked fuselage frame Number 9 with a new serviceable part.

(b) The repetitive inspections specified in paragraph (a)(i) of this AD may be suspended for a period not to exceed 700 hours TIS after the repairs specified in paragraph (a)(ii) have been accomplished.

(c) Airplanes may be flown in accordance with Section 21.197 of the FAR to a location where these inspections may be performed. Once any crack is detected on fuselage frame Number 9, no further flight is authorized until repairs are completed.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Brussels Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30, extension 2710/2711.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Mr. Bernard Veyssiere, U.S. Product Support Manager, SOCATA-Groupe Aerospatiale, U.S. Marketing and Product Support, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; or SOCATA-Groupe Aerospatiale, B.P. 38, 65001 Tarbes, France; Telephone 62 51 7300 (Telex 520828F); or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 2, 1987.

Issued in Kansas City, Missouri, on October 16, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-24974 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 67

Falsification of Airman Medical Certificate Applications; Record of Traffic Convictions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of enforcement policy.

SUMMARY: Applicants for an airman medical certificate who have provided incorrect information with respect to a record of traffic convictions, e.g., driving while intoxicated, may have violated § 67.20 of the Federal Aviation Regulations (14 CFR § 67.20) by making intentionally false or fraudulent statements on their applications. This notice announces an opportunity for any such applicant to avoid possible enforcement action based on that falsification against his or her airman, ground instructor, or medical certificates by providing the FAA with corrected information. The notice also makes clear that as of January 1, 1988, the FAA intends to take enforcement action, as appropriate, against persons who falsify or have falsified their applications in this regard.

FOR FURTHER INFORMATION CONTACT: Peter J. Lynch, Manager, Enforcement Proceedings Branch, AGC-250, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3491.

SUPPLEMENTARY INFORMATION: Section 67.20 of the Federal Aviation Regulations prohibits any person from making fraudulent or intentionally false statements on applications for an airman medical certificate. Section 67.20 also provides that the making of such a statement may be the basis for suspension or revocation of any airman, ground instructor, or medical certificate held by the person making the statement. The FAA regards falsification as an extremely serious matter and expects every airman to complete the application truthfully.

The Inspector General of the United States Department of Transportation (IG) has conducted an audit of the FAA's Airman Medical Certification Program. Based on the findings of the audit, it appears that a significant number of those airmen who have a record of alcohol- or drug-related traffic convictions (e.g., convictions for driving while intoxicated (DWI)) have failed to report those convictions on their applications for airman medical certification. A failure to report these convictions may be a violation of § 67.20 of the Federal Aviation Regulations, since the application calls for airmen to report their record of traffic convictions.

The Inspector General has identified some airmen who appear to have falsified their applications with regard to their record of traffic convictions. That information is being provided to the FAA for appropriate action. As of January 1, 1988, the FAA intends to take appropriate enforcement action based on falsification of the application with respect to those cases provided to the FAA by the IG, as well as any other cases of which the FAA has become or becomes aware, which appear to warrant such action. However, from the date of this notice and until further notice, where the airman has voluntarily supplied to the FAA's Aeromedical Certification Branch information correcting statements regarding a record of traffic convictions in his or her medical application prior to the FAA's being aware of any incorrect statement in the application, the FAA will not take action against the airman's certificates on the basis of falsification for any falsification disclosed by such voluntarily supplied information. The FAA's policy on these cases with respect to forgoing enforcement action for violation of § 67.20 due to failure to report traffic convictions does not preclude the FAA from suspending or revoking a medical certificate, as appropriate, based on the FAA's need to determine an airman's qualifications or its finding that an airman is medically unqualified.

Additionally, even where, before January 1, 1988, the FAA has become aware of an apparent falsification regarding a record of traffic convictions (e.g., when informed by the IG or through other sources), enforcement action will not be taken if, before January 1, 1988, the airman has voluntarily supplied the correct information to the FAA.

A report of corrected information may be made on an application for a medical certificate or by writing to the FAA. If any airman chooses to report correct information by writing to the FAA, he or she should address the letter to: Aeromedical Certification Branch, AAM–130, Civil Aeromedical Institute, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125.

It should be noted that the FAA will continue to take enforcement action against an airman in appropriate cases in which a conviction for violating a statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of drugs is disclosed.

The FAA plans to propose to amend the Federal Aviation Regulations to deal, in part, with alcohol- and drug-related driving convictions. Airmen are urged to follow the progress of, and participate in, this rulemaking.

Availability of this Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484.

Issued in Washington, DC, on October 22, 1987.

T. Allan McArtor,

Administrator.

[FR Doc. 87–24998 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

RAILROAD RETIREMENT BOARD

20 CFR Part 200

Assessment or Waiver of Interest, Penalties, and Administrative Costs With Respect to the Collection of Certain Debts

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby revises § 200.7 of its regulations to provide for the assessment of interest, penalties, and administrative costs with respect to the collection of certain debts, as authorized by the Debt Collection Act of 1982, in connection with the collection of certain debts arising from erroneous benefit payments under the several Acts administered by the Board. The Debt Collection Act of 1982 requires the Board to charge interest on claims for money owed the Board, to assess penalties on delinquent debts, and to assess charges to cover the costs of processing claims for delinquent debts. This revision sets forth the circumstances under which the Board may assess interest, penalties, and charges which arise from benefit or annuity overpayments made under any of the Acts which the Board administers.

EFFECTIVE DATE: October 29, 1987.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Stanley Jay Shuman, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4568 (FTS 386–4568).

SUPPLEMENTARY INFORMATION: Section 11 of the Debt Collection Act of 1982 (Pub. L. 97–365) amended section 3(e) of the Federal Claims Collection Act of 1966, which was revised and recodified at 31 U.S.C. 3717 (Pub. L. 97–452, section 1(16)(A), Jan. 12, 1983, 96 Stat. 2472), to provide that the head of an agency shall charge interest on claims owed the agency, assess penalties on delinquent debts, and assess charges to cover the costs of processing claims for delinquent debts. The revised § 200.7 implements the provisions of 31 U.S.C. 3717 relating to assessment of interest, penalties, and administrative costs by establishing criteria therefor in conformity with the standards adopted by the Attorney General and the Comptroller General as set forth in 4 CFR 102.13.

Section 200.7 was published in the **Federal Register** on July 27, 1987 (52 FR 27997), as a proposed rule with a 60-day comment period. The Board has not received any comments concerning new § 200.7.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. In addition, this rule does not impose any information collections within the meaning of the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 200

Claims, Debt collection, Employee benefit plans, Railroad employees, Railroad retirement, Railroad unemployment insurance.

Title 20 CFR, Chapter II, Part 200, is amended as follows:

PART 200—[AMENDED]

1. The table of contents for Title 20, Chapter II, Subchapter A, Part 200, is amended by removing "200.7 Waiver of interest, penalties, and collection costs with respect to certain debts." and inserting in lieu thereof "200.7 Assessment or waiver of interest,

penalties, and administrative costs with respect to collection of certain debts."

2. The authority citation for 20 CFR Part 200 is revised to read as follows, and the authority citations following the sections are removed:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362.

Section 200.4 also issued under 5 U.S.C. 552.

Section 200.5 also issued under 5 U.S.C. 552a.

Section 200.6 also issued under 5 U.S.C. 552b.

Section 200.7 also issued under 31 U.S.C. 3717.

3. Title 20 CFR 200.7 is revised to read as follows:

§ 200.7 Assessment or waiver of interest, penalties, and administrative costs with respect to collection of certain debts.

(a) *Purpose.* The Debt Collection Act of 1982 requires the Board to charge interest on claims for money owed the Board, to assess penalties on delinquent debts, and to assess charges to cover the costs of processing claims for delinquent debts. The Act permits, and in certain cases requires, an agency to waive the collection of interest, penalties and charges under circumstances which comply with standards enunciated jointly by the Comptroller General and the Attorney General. Those standards are contained in 4 CFR 102.13. This section contains the circumstances under which the Board may either assess or waive interest, penalties, and administrative costs which arise from benefit or annuity overpayments made under any of the Acts which the Board administers.

(b)(1) Simple interest shall be assessed once a month on the unpaid principal of a debt.

(2) Interest shall accrue from the date on which notice of the debt and demand for repayment with interest is first mailed or hand-delivered to the debtor, or in the case of a debt which is subject to section 10(c) of the Railroad Retirement Act or section 2(d) of the Railroad Unemployment Insurance Act, interest shall accrue from the date that a denial of waiver of recovery is mailed or hand-delivered to the debtor or, if waiver has not been requested, upon the expiration of the time within which to request waiver, except as otherwise specified in this section.

(3) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published in the **Federal Register** and the Treasury Financial Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717.

(4) The rate of interest as initially assessed shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, a new interest rate may be assessed.

(c)(1) A penalty charge of 6 percent per year shall be assessed on any debt that is delinquent for more than 90 days.

(2) The penalty charge shall accrue from the date on which the debt became delinquent.

(3) A debt is delinquent if it has not been paid in full by the 30th day after the date on which the initial demand letter was first mailed or hand-delivered, or, if the debt is being repaid under an installment payment agreement, at any time after the debtor fails to satisfy his or her obligation for payment thereunder.

(d)(1) Charges shall be assessed against the debtor for administrative costs incurred as a result of processing and handling the debt because it became delinquent.

(2) Administrative costs include costs incurred in obtaining a credit report and in using a private debt collector.

(e) When a debt is paid in partial or installment payments, amounts received shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal. Where a debtor is in default under an installment repayment agreement, uncollected interest, penalties and administrative cost charges which have accrued under the agreement shall be added to the principal to be paid under any new installment repayment agreement entered into between the Board and the debtor.

(f) *Exemptions.* The assessment of interest, penalties, and administrative costs under this section does not apply to debts under sections 2(f) and 8(g) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(f) and 358(g)).

(g)(1) The Board shall waive the collection of interest under the following circumstances:

(i) When the debt is paid within thirty days after the date on which notice of the debt was mailed or personally delivered to the debtor,

(ii) When, in any case where a decision with respect to waiver of recovery of an overpayment must be made:

(A) The debt is paid within thirty days after the end of the period within which the debtor may request waiver of recovery, if no request for waiver is received within the prescribed time period; or

(B) The debt is paid within thirty days after the date on which notice was mailed to the debtor that his or her request for waiver of recovery has been wholly or partially denied if the debtor requested waiver of recovery within the prescribed time limit; however, regardless of when the debt is paid, no interest may be charged for any period prior to the end of the period within which the debtor may request waiver of recovery or, if such request is made, for any period prior to the date on which notice was mailed to the debtor that his or her request for waiver of recovery has been wholly or partially denied;

(iii) When, in the situations described in paragraphs (g)(1)(i) and (g)(1)(ii) of this section, the debt is paid within any extension of the thirty-day period granted by the Board;

(iv) With respect to any portion of the debt which is paid within the time limits described in paragraphs (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this section; or

(v) In regard to any debt the recovery of which is waived.

(2) The Board may waive the collection of interest, penalties and administrative costs in whole or in part in the following circumstances:

(i) Where, in the judgment of the Board, collecting interest, penalty and administrative costs would be against equity and good conscience; or

(ii) Where, in the judgment of the Board, collecting interest, penalty and administrative costs would not be in the best interest of the United States.

(h)(1) In making determinations as to when the collection of interest, penalty and administrative costs is against equity and good conscience the Board will consider evidence on the following factors:

(i) The fault of the overpaid individual in causing the underlying overpayment; and

(ii) Whether the overpaid individual in reliance on the incorrect payment relinquished a valuable right or changed his or her position for the worse.

(2) In rendering a determination as to when the collection of interest, penalties and administrative costs is not in the best interest of the United States the Board will consider the following factors:

(i) Whether the collection of interest, penalties and administrative costs would result in the debt never being repaid; and

(ii) Whether the collection of interest, penalties and administrative costs would cause undue hardship.

Dated: October 22, 1987.

By Authority of the Board.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 87-25002 Filed 10-28-87; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF STATE

22 CFR Part 7

[108.864]

Board of Appellate Review

AGENCY: Board of Appellate Review, State.

ACTION: Final rule.

SUMMARY: This document corrects omissions and typographical errors in 22 CFR Part 7.

EFFECTIVE DATE: October 29, 1987.

ADDRESS: Board of Appellate Review, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Alan G. James, Chairman, Board of Appellate Review, Telephone (202) 653-5090.

SUPPLEMENTARY INFORMATION:

List of Subjects in 22 CFR Part 7

Administrative practice and procedure, Citizenship and naturalization, Organization and functions (Government).

Accordingly, 22 CFR Part 7 is amended as follows:

PART 7—BOARD OF APPELLATE REVIEW

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

Authority: Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended, 22 U.S.C. 211a, 2658; secs. 104, 360, 66 Stat. 174, 273, 8 U.S.C. 1104, 1503; E.O. 11295, 36 FR 10603; 3 CFR 1966-1970 Comp., page 507; 22 CFR 60-65; E.O. 12532, 50 FR 36861 7.4 also issued under 22 U.S.C. 3926.

§ 7.5 [Amended]

2. In § 7.5(b)(3), remove "§ 61.1(a)" and insert "§ 64.1(a)".

In § 7.5(g) *Admissibility of evidence*, after "§ 7.7" insert "and § 7.8,".

In § 7.5(j) *Scope of review*, after "§ 7.7," remove the comma and insert "and 7.8,".

In § 7.5(k) *Appearance before the Board*, remove "§ 7.11," and insert "§ 7.12,".

§ 7.8 [Amended]

3. In § 7.8(b) *Admissibility of evidence*, remove "exerciser" and insert "exercise".

§ 7.9 Decisions.

4. In § 7.9 *Decisions*, remove "§ 7.9" and insert "§ 7.10".

Alan G. James,

Chairman, Board of Appellate Review, Department of State.

October 9, 1987.

[FR Doc. 87-25015 Filed 10-28-87; 8:45 am]

BILLING CODE 4710-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[No. 37321 (Sub-No. 1)]

Revision of Tariff Regulations; Computer Determination of Mileages; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; corrrection.

SUMMARY: The Commission is amending 49 CFR Part 1312 to allow all motor common carriers to file electronic distance determination systems in lieu of printed distance guides. The Commission's final rule was published in the **Federal Register** on October 22, 1987 at 52 FR 39536. This notice corrects the regulatory text of the final rule to show that this rule applies to motor common carriers.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 275-6887 (TTD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1312

Motor carriers, Railroads.

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for 49 CFR Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10321 and 10762; 5 U.S.C. 553.

§ 1312.30 [Amended]

2. Section 1312.30(c)(5) is corrected as follows:

The last sentence of § 1312.30(c)(5) beginning with the words "Carriers may" is corrected to read "Motor common carriers may".

Noreta R. McGee,

Secretary.

[FR Doc 87-25033 Filed 10-28-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 61113-7235]

Foreign Fishing; Groundfish of the Gulf of Alaska

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

ACTION: Final notice of 1987 initial specifications for groundfish; reapportionments of reserves; prohibited species catch limits and request for comments.

SUMMARY: NOAA announces 1987 Gulf of Alaska groundfish initial specifications as modified by recent apportionments and current apportionments of (1) target quotas (TQs) for each category of groundfish; (2) current reapportionments of reserves; (3) prohibited species catch (PSC) limits for certain groundfish species; and (4) PSC limits for Pacific halibut. This action is based on recommendations of the North Pacific Fishery Management Council (Council) following its May 20-22, 1987, meeting and its September 1, 1987, teleconference. The groundfish fishery in the exclusive economic zone is directed at an optimum yield for all groundfish species equal to 116,000 to 800,000 metric tons (mt). The interim notice of initial specifications (52 FR 785, January 9, 1987) had a total target quota for all species of 216,552 mt. This final notice of initial specifications has a total target quota for all species of 221,277 mt. It is necessary to provide harvest amounts to fishermen delivering groundfish for either domestic annual processing (DAP) or for joint venture processing (JVP). It is also necessary to control incidental catches of certain groundfish species and Pacific halibut that are fully utilized by U.S. fishermen. This action is intended as a conservation and management measure that provides for full utilization of available groundfish resources off Alaska during 1987.

DATES: This notice is effective on October 28, 1987. Comments on the groundfish reapportionments and amounts of prohibited species catch (PSC) limits are invited until November 12, 1987.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 021668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (National Marine Fisheries Service, 907–586–7230).

SUPPLEMENTARY INFORMATION:

Background

At its December 1986, meeting, the North Pacific Fishery Management Council recommended that all TQs of Gulf of Alaska groundfish, including reserves, be apportioned to DAP with the exception of a 1,500-metric ton (mt) apportionment of flounder in the Central Regulatory Area to JVP. The Council had made the recommendation after reviewing results of a NMFS presurvey of the DAP industry and after considering NMFS reservations about the likelihood that DAP could actually be harvested. Small bycatch amounts of other groundfish species categories, including pollock, were also apportioned to JVP from the reserves to support the flounder JVP. Zero amounts were apportioned to total allowable level of foreign fishing (TALFF).

After the Council's December meeting, the Secretary of Commerce (Secretary) reviewed the Council's recommendation and the NMFS survey. The Secretary noted that actual DAP production has historically fallen short of the amounts that DAP processors have indicated they would process when responding to the NMFS preseason survey. In 1986, for example, actual DAP production by the end of the year was about 15 per cent of the NMFS preseason survey results. DAP processors, although expected to process more pollock in 1987 than in any previous year, are also expected to experience product supply problems related to transportation costs, market prices, and competition for catcher vessels with joint venture operations.

Rather than accept without further consideration the Council's December 1986 recommendation, the Secretary published the Council's recommendation as an interim rule (see Table 1 at 52 FR 787, January 9, 1987). This allowed sufficient time for DAP processors to finalize their operations for 1987. The interim notice also established prohibited species catch (PSC) limits for Pacific halibut, sablefish, Pacific ocean perch (POP), and "other rockfish", which are groundfish species fully utilized by DAP fishermen. Comments on the interim apportionments of TQ among DAP, JVP, and TALFF including the amounts apportioned from reserves were requested until January 18, 1987. Comments on Pacific halibut PSCs were requested also. Two letters of comments were received on the interim notice. Comments pertained to the TQ and its apportionments for pollock in the Western/Central Regulatory Area of the Gulf of Alaska. Comments are summarized and responded to in the section "Public Comments Received".

This final notice establishes 1987 TQs for each groundfish species and apportions them between DAP and JVP. It also establishes final PSC limits for Pacific halibut in the DAP and JVP fisheries and PSC limits for sablefish, POP, and "other rockfish" in the JVP fisheries. This notice contains significant differences from the interim notice with respect to TQs for flounder and "other species" and PSCs limits for several species. This notice also has significant differences from the interim notice with respect to DAP and JVP for pollock. These differences are discussed as follows:

Pollock

The interim notice apportioned 300 mt of pollock to JVP. Most of the 84,000-mt pollock TQ (83,700 mt) was apportioned to DAP in the Western and Central areas. That amount was considered by the Regional Director to be in excess of DAP needs.

JVP fishermen subsequently requested the Regional Director to review the pollock apportionments. The Regional Director conducted the review with the Council at the January and May 1987 meetings. At both meetings, the Council received information from U.S. processors that indicated they had the capacity and intention to process the entire DAP. The extent that fishermen would be able to catch and deliver DAP to those processors was not clear. At its May 1987 meeting, the Council decided that insufficient fishing time had passed to determine whether market conditions and fishing success would come together to realize the processors' expectations. The Council decided that 16,800 mt of pollock should be placed in reserve under authority of the FMP. The amount in the reserve represented the uncertainty about the amount that U.S. processors might utilize.

The Council scheduled a teleconference for September 1, 1987, to review the status of the DAP pollock fishery, as well as other DAP fisheries in the Gulf of Alaska. It requested the Regional Director to survey the DAP processors as to their expectations to process pollock during the remainder of the year. At the teleconference, the Council considered the results of the new survey findings, the results of the pollock fishery to date, and testimony from the DAP processors as to what they intended to process during the remaining months. Part of the testimony stated that pollock should be left unharvested, because they were too small for optimal markets. On the basis of the new information, the Council voted to recommend that the Secretary not reapportion the pollock reserve to JVP, but to leave it available for DAP.

The Secretary disagreed with the Council recommendation. The Secretary considered the NMFS surveys, the DAP pollock catch as of September 1, and the likelihood that DAP fishermen would catch and sell 16,800 mt of pollock, in addition to the 67,200 mt in the TQ (minus small amounts for JVP bycatches), by the end of the fishing year. The Secretary initially determined that DAP fishermen will need a total of 67,200 mt for 1987. Therefore, the Secretary declared that 16,800 mt was not needed for DAP and reapportioned that from reserve amount to JVP. This action, in large part, was accomplished by a notice of an inseason adjustment which reapportioned 16,500 mt of DAP pollock to JVP, effective October 2 (52 FR 37463, October 7, 1987). Furthermore, the Secretary determined that an additional 9,000 mt of pollock should be reapportioned from DAP to JVP for the Western/Central Area of the Gulf of Alaska, effective October 22. Therefore, the current apportionment of pollock within the Western/Central Area is 58,200 mt for DAP and 25,800 mt for JVP (Table 1).

Atka Mackerel

On October 13, Atka mackerel was reapportioned form DAP to JVP in the Western and Central areas in the amounts of 70 and 65 mt, respectively (52 FR 38428). The net result is 10 mt of DAP and 90 mt of JVP for this species in both the Western and Central Areas (Table 1).

Flounder

Shortly after the Council's May 1987 meeting, the Regional Director was requested by certain joint venture interests to increase the JVP specification for flounder in the Central and Western Regulatory Areas. The Regional Director advised the Council to consider the JVP request at its September 1987 teleconference. The Council complied, and recommended that the TQ for flounder in the Central Regulatory Area be increased by 4,500 mt, from 5,500 mt to 10,000 mt. It recommended that the entire increase be apportioned to JVP, thus increasing JVP from 1,500 mt to 6,000 mt. The Council also recommended to the Regional Director that PSC limits be increased to accommodate the increased flounder JVP as shown below. At the September 1, teleconference call, the Council also recommended a reapportionment of 675

mt of Pacific cod from DAP to JVP for the Central area to provide for increased bycatch of this species in the JVP fishery for flounder. The Secretary agrees with the Council recommendation and implements the change in this action. He also notes that, since the best available information still shows the acceptable biological catch for flounder to be 537,000 mt, the small 4,500 mt-increase in the flounder TQ poses no significant biological impact on this resource.

"Other rockfish"

The interim notice at 52 FR 787 (January 9, 1987) addresses the 1,250-mt TQ for certain species of "other rockfish" in the Southeast Outside District. These species are called demersal shelf rockfish. The preamble to the interim notice had described these species as being in the Southeast Outside District in waters shallower than 100 fathoms. These are rockfish species that have been managed by the State of Alaska under authority of the FMP that recognizes the State's regulatory role over demersal shelf rockfish. This final notice clarifies this category of "other rockfish" by listing them by (species) and common scientific name as follows: *Sebastes paucispinis* (bocaccio), *S. pinniger* (canary rockfish), *S. nebulosus* (China rockfish), *S. caurinus* (Copper rockfish), *S. maliger* (quillback rockfish), *S. proriger* (redstripe rockfish), *S. helvomaculatus* (rosethorn rockfish), *S. brevispinis* (silvergray rockfish), *S. nigrocinctus* (tiger rockfish), and *S. ruberrimus* (yelloweye rockfish).

"Other species"

The "other species" category (Table 1) has its TQ calculated as 5% of the total of TQ's for all target species. This final notice of initial specifications for Gulf of Alaska groundfish has only one change in a TQ for a target species compared to the interim notice (52 FR 785, January 9, 1987). The TQ for flounder has been increased by 4,500 mt. Therefore, the TQ for "other species" is increased by 225 mt (5% × 4,500) in this final notice of initial Gulf of Alaska specifications compared to the interim notice.

Prohibited Species Catch Limits for Pacific Halibut and Fully Utilized Groundfish

The PSC limits for Pacific halibut applied to DAP and JVP vessels, established under 50 CFR 672.20(f), are changed from those shown in the interim notice as a result of changes to the initial apportionments of TQs. The changes are necessary, because the TQ for flounder in the Central Regulatory Area is changed, and because apportionments between DAP and JVP for each of the groundfish species are changed.

An estimated 2,849 mt of Pacific halibut are expected to be caught in DAP fisheries in 1987. An estimated 183 mt could be caught in JVP fisheries. Actual mortality, given the difference between DAP and JVP fishing operations, is estimated to be 1,231 mt and 183 mt, respectively. Therefore, because the apportionments of groundfish between DAP and JVP are changed from those established in the interim notice, the Secretary has modified the Pacific halibut PSC limits established in the interim notice by setting new PSCs of 2,849 mt and 183 mt, respectively, for the 1987 DAP and JVP fisheries. If the Regional Director determines that a PSC limit has been reached by a DAP or JVP fishery, he must prohibit further bottom trawling by that fishery in the Gulf of Alaska for the remainder of the fishing year. He may, however, allow some or all of those vessels to continue to fish for groundfish using bottom trawl gear under specified conditions as described at § 672.20(e).

The Council determined at its December 1986 meeting, that sablefish, Pacific ocean perch, and "other rockfish" will be fully utilized by DAP fishermen in 1987. To provide adequate bycatch for full harvest of TQs for pollock, the Secretary modified the final PSCs, effective October 2 and allocated them in the joint venture fisheries in the Western Regulatory Area as follows: 20 mt of Pacific ocean perch and 30 mt of sablefish. Other modifications to PSC's (mt) that will be effective in the Gulf of Alaska upon filing of this notice include the following:

	Central area	Gulf-wide area
Sablefish	169	
POP	388	
"Other rockfish"		68

If the Regional Director determines that a groundfish PSC limit has been reached by the joint venture fisheries, he will publish a notice closing that directed fishery in all, or part, of the area or district concerned.

No changes were made in the apportionments of sablefish among the legal gear types (hook-and-line, trawl, and pot) from those provided by § 672.24, and as shown in the interim notice. Nonetheless, the apportionments are reprinted again without changes (see table of apportionments of sablefish gear quotas) in this final notice.

APPORTIONMENTS OF SABLEFISH GEAR QUOTAS (METRIC TONS)

Area	TQ	Gear	Percent	Share (mt)
Western	3,000	H&L	55	1,650
		TRAWL	20	600
		POT	25	750
Central	8,800	H&L	80	7,040
		TRAWL	20	1,760
West Yakutat	4,000	H&L	95	3,800
		TRAWL	5	200
East Yakutat/Southeast Outside	4,200	H&L	95	3,990
		TRAWL	5	210

The initial TQs in the Gulf of Alaska, as modified through the date of filing of this notice with the **Federal Register**, and their apportionment between DAP and JVP, are shown for each species by regulatory area in Table 1. Reserves have been reapportioned to DAP and/or to JVP. In each case, the Secretary has determined that the amounts specified as DAP are needed by U.S. fishermen for harvest and delivery to U.S. processors. Only the amounts considered surplus to DAP are reapportioned to JVP. Comments are invited on the amounts specified.

TABLE 1.—INITIAL (AS OF JANUARY 1, EACH YEAR TARGET QUOTA (TQ), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), AS MODIFIED BY REAPPORTIONMENTS, ALL IN METRIC TONS. TQ=DAH+RESERVE+TALFF; DAH=DAP+JVP. (INCLUDES REAPPORTIONMENTS THROUGH DATE OF FILING THIS NOTICE WITH THE FEDERAL REGISTER)

Species	Area [1]	Species code	TQ	DAH	DAP	JVP	Reserve	TALFF
Pollock	W/C	701	84,000	84,000	58,200	25,800	0	0
Outside Shelikof			20,000	20,000	0	20,000	0	0

TABLE 1.—INITIAL (AS OF JANUARY 1, EACH YEAR TARGET QUOTA (TQ), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), AS MODIFIED BY REAPPORTIONMENTS, ALL IN METRIC TONS. TQ=DAH+RESERVE+TALFF; DAH=DAP+JVP. (INCLUDES REAPPORTIONMENTS THROUGH DATE OF FILING THIS NOTICE WITH THE FEDERAL REGISTER)—Continued

Species	Area [1]	Species code	TQ	DAH	DAP	JVP	Reserve	TALFF
	E		4,000	4,000	4,000	0	0	0
	(Total)		108,000	108,000	62,200	45,800	0	0
Pacific cod	W	702	15,000	15,000	14,700	300	0	0
	C		33,000	33,000	31,300	1,700	0	0
	E		2,000	2,000	2,000	0	0	0
	(Total)		50,000	50,000	48,600	1,400	0	0
Flounders	W	129	3,000	3,000	2,550	450	0	0
	C		10,000	10,000	4,000	6,000	0	0
	E		500	500	500	0	0	0
	(Total)		13,500	13,500	7,050	6,450	0	0
Pacific [2] ocean perch	W	780	1,500	1,500	1,500	20 *	0	0
	C		1,500	1,500	1,500	388 *	0	0
	E		2,000	2,000	2,000	0 *	0	0
	(Total)		5,000	5,000	5,000	408 *	0	0
Sablefish	W	703	3,000	3,000	3,000	30 *	0	0
	C		8,800	8,800	8,800	169 *	0	0
	W.YK		4,000	4,000	4,000	0 *	0	0
	E.YK/SE		4,200	4,200	4,200	0 *	0	0
	(Total)		20,000	20,000	20,000	199 *	0	0
Atka mackerel	W	207	100	100	10	90	0	0
	C		100	100	10	90	0	0
	E		40	40	40	0	0	0
	(Total)		240	240	60	180	0	0
Other Rockfish [3]	G-W	849	4,000	4,000	4,000	68 *	0	0
Demersal Shelf rockfish [4]	SEO		1,250	1,250	1,250	0 *	0	0
	(Total)		5,250	5,250	5,250	68 *	0	0
Thornyheads	G-W	749	3,750	3,750	3,700	50	0	0
Squid	G-W		5,000	5,000	4,950	50	0	0
Other species [5]	G-W		9,537	9,537	8,437	1,100	0	0

* Footnote: PSC limits, which are not a part of DAH totals.

[1] See figure 1 of § 672.20 for description of regulatory areas/districts.

[2] The category "Pacific ocean perch" includes *Sebastes alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rock fish), and *S. zacentrus* sharpchin rockfish.

[3] The category "other rockfish" includes all fish of the genus *Sebastes* except Pacific ocean perch and shelf demersal rockfish.

[4] Shelf demersal rockfish includes *Sebastes paucispinis* (bocaccio), *S. pinniger* (canary rockfish), *S. nebulosus* (china rockfish), *S. caurinus* (copper rockfish), *S. malliger* (quillback) rockfish, *S. proriger* (redstripe rockfish), *S. helvomaculatus* (rosethorn rockfish), *S. brevispinis* (silvergray rockfish), *S. nigrocinctus* (tiger rockfish), and *S. ruberrimus* (Yelloweye rockfish).

[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, and octopus. The TQ is equal to 5% of the TQs of the target species.

Public Comments Received

Comments received pertained to both the proposed notice and the interim notice. They have been summarized and responded to as follows:

Comment: The initial TQ and DAP specifications for pollock in the Western/Central Regulatory Area of the Gulf of Alaska should be revised to reflect the biologically available yield for pollock and to reflect the probable DAP production, thereby permitting a joint venture fishery on at least 40,000 mt during the Shelikof Strait roe season that began on February 15.

Response: The North Pacific Fishery Management Council accepted the Plan Team's ABC estimate for pollock of 95,000 mt. However, it adopted the Advisory Panel's recommendation that the TQ should be 84,000 mt in recognition of the large contribution that three year-old pollock made to the ABC and the poor condition of the pollock stock. Few pollock spawn at age three, but about 95 percent spawn at age four. Therefore, allowing one more year of maturation would result in more pollock spawning at age four, which would promote growth in the stocks. Also, more harvestable biomass would be available in subsequent years as the pollock grow in size, providing for greater returns to the fishery. The Secretary concurs with this recommendation and has approved the Council's recommendation that the TQ should be 84,000 mt.

The Secretary has reviewed the Council's recommendation made at its May and September 1987, meetings concerning the recommendation for DAP. The Secretary has determined that the DAP harvest will be no more than 67,200 mt for the reasons described previously. Therefore, he has revised the pollock DAP from the 83,700 mt in the interim notice to 67,200 mt on October 2 (52 FR 37463, October 7, 1987), establishing a total of 16,800 mt reserve, and apportioning that reserve to JVP. Should the Secretary's assessment prove to be an overestimate of the 1987 DAP fishery, he is authorized to reapportion any amounts of pollock he finds will not be harvested in the DAP fishery to JVP later in the year.

The Secretary invites public comments for a period of 15 days after the effective date of the apportionment. The Secretary will consider all timely comments in deciding whether to modify an apportionment that has been made,

and will publish responses to those comments in the **Federal Register** as soon as is practicable.

Other Matters

This action is taken under the authority of §§ 611.92(c) and 672.20 and complies with Executive Order 12291.

Immediate implementation of these specifications, PSC's, and apportionments is necessary to prevent premature closures in fisheries for which a harvestable amount of groundfish remains. Therefore, the Secretary finds for good cause that is impracticable and contrary to the public interest to provide prior notice and opportunity for comment, or to delay for 30 days, the effective date of this rule. Comments are invited on reapportionments and amounts of PSC limits for 15 days following the effective date of this notice.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 672

Fisheries.

Dated: October 26, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-25088 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 209
Thursday, October 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 966

Tomatoes Grown in Florida; Proposed Change in Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a minimum size requirement of 2-$^{8}/_{32}$ inches in diameter for fresh market shipments of Florida tomatoes within the regulated area, the same as in effect for fresh market tomato shipments outside the regulated area. The effect of this action would eliminate the handling of tomatoes smaller than 2-$^{8}/_{32}$ inches in diameter and provide local fresh markets with better quality and slightly larger size tomatoes. This proposed action is consistent with current handling regulations which prohibit shipment of tomatoes smaller than 2-$^{8}/_{32}$ inches in diameter outside the regulated area. This action is not expected to short the market, as ample supplies of good quality tomatoes are expected from domestic and foreign sources to meet market needs.

DATES: Comments due November 9, 1987.

ADDRESS: Comments should be sent to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection in the Office of the Docket Clerk during regular business hours. Comments should reference the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 966 (7 CFR Part 966), as amended, regulating the handling of tomatoes grown in Florida. This order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

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

There are approximately 103 handlers of tomatoes subject to regulation under the Florida Tomato Marketing Order, and approximately 180 tomato producers in Florida.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of Florida tomatoes may be classified as small entities.

The 1986–87 annual report of the Florida Tomato Committee ("committee") indicated that total shipments for the 1986–87 season were 56,366,486 25-lb. equivalents, compared to 52,421,792 for the 1985–86 season and 52,471,073 for 1984–85. The average yield was approximately 1,107 25-lb. equivalents per acre compared to 1,150 the previous season and 1,173 in 1984–85. The total acres harvested was 5,387 more than the 45,530 acres harvested last season, and shipments were up 3,944,694 packages. Available forecasts predict that adequate tomato supplies will be available in the fall, winter and spring of the 1987–88 season. Tomato production in the Florida marketing order area is expected to be at least equal to the 56.4 million 25-lb. equivalents shipped in 1986–87. Sales of mature green and vine ripe 7x7 size tomato shipments (2-5/32 to 2-7/32 inches in diameter) for all grades totaled 360,472 containers of 25-lb. equivalents or approximately 0.6 percent of the total shipments of 52,366,486 25-lb. equivalents for all sizes. Mature green and vine ripe 7x7 size tomatoes were valued at $1,751,850 or approximately 0.4 percent of the total sales dollars of $410,124,645 for all tomato grades and sizes. Therefore, prohibiting the sales of such tomatoes would not produce a significant economic impact on tomato handlers or producers.

This proposed rule would change the handling regulation at 7 CFR § 966.323 to require that all tomatoes handled by handlers be at least 2-8/32 inches in diameter. Changes would be made to § 966.323 in the introductory text and paragraph (a)(2)(i) to establish the proposed minimum size requirement. A change in paragraph (a)(2)(i) of that section is proposed for clarity. This proposal is being issued pursuant to § 966.52 of the order.

Currently, fresh market tomatoes shipped within the regulated area are not subject to the tomato handling regulation requirements. The "regulated area" is defined in § 966.4 as that portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico. This area includes all of the State, except the panhandle.

Last year, a final rule was published November 13, 1986 (51 FR 41074) that established a minimum size of 2-8/32 inches in diameter for fresh market tomato shipments outside the regulated area and tomato imports. This was intended to improve the overall maturity and quality of tomatoes shipped to fresh market channels. Prior to that action, the minimum size for fresh market tomato shipments was 2-5/32 inches in diameter. Smaller size tomatoes generally take longer to ripen than larger tomatoes. Because of this, small tomatoes normally do not develop full

flavor and are less desirable in the marketplace than larger tomatoes.

Because size is generally the most important consideration in pricing at shipping point and wholesale, small tomatoes can have an adverse impact on the market for all tomatoes in general. Members of the committee believe that regulating the minimum size of fresh market tomato shipments within the regulated area is necessary in order to maintain the integrity of the marketing order and the applicable handling regulations, and to consistently provide fresh markets with slightly larger good quality tomatoes. In addition, the committee reports that several shipments of Florida tomatoes smaller than 2-8/32 inches, originally destined for markets within the regulated area, have been found outside the regulated area.

Quality assurance is very important to the Florida tomato industry both within and outside of the state. Providing the public with acceptable quality produce which is appealing to the consumer on a consistent basis is necessary to maintain buyer confidence in the marketplace. To the extent that this action increases the quality of tomatoes in the marketplace, it would also be of benefit to both Florida tomato growers and handlers.

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

A 10-day comment period is deemed appropriate because the harvest and shipment of 1987–88 season Florida tomatoes has begun. If adopted, it is anticipated that this change would become effective on November 25, 1987.

If any change is adopted as a result of this rulemaking, a final rule would become effective as soon as practicable after the beginning of the 1987–88 season. Until such a time, the existing handling requirements that appear in § 966.323 will remain in effect.

List of Subjects in 7 CFR Part 966

Marketing agreements and orders, Tomatoes, Florida.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 966 be amended as follows:

PART 966—[AMENDED]

1. The authority citation for 7 CFR Part 966, Tomatoes Grown in Florida continues to read as follows:

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

2. Section 966.323 is amended by revising the introductory text and paragraph (a)(2)(i) to read as follows:

§ 966.323 Handling regulation.

During the period November 25, 1987, through June 15, 1988, and October 10 through June 15 each season thereafter, except as provided in paragraphs (b) and (d), no person shall handle any lot of tomatoes for shipment outside the regulated area unless it meets the requirements of paragraph (a) and no person shall handle any lot of tomatoes for shipment within the regulated area unless it meets the requirements of paragraph (a)(2)(i) and (a)(4).

(a) * * *

(2)(i) All tomatoes packed by a handler shall be at least 2-8/32 inches in diameter. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in paragraph 51.859 of the U.S. Standards for Grades of Fresh Tomatoes.

* * * * *

Dated: October 27, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–25233 Filed 10–28–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1124 and 1125

[Docket Nos. AO–368–A16 and AO–226–A32]

Milk in the Oregon-Washington and Puget Sound-Inland Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a merger of the Oregon-Washington and Puget Sound-Inland Federal milk orders. Six cooperative associations requested that the hearing be held to consider merging the two orders. These cooperative organizations contend that the territory covered by the two orders is now essentially one market. The proposed merged order would combine the marketing areas of the two existing orders and add three Oregon counties and five Washington counties to the existing order areas. It is expected that no additional handlers would be regulated.

Under the proposal, the Class I differentials at the base cities in the proposed merged marketing area would be $1.90, representing a 5-cent increase at Seattle, Washington, and 5-cent decreases at Portland, Oregon, and Spokane, Washington. The plant location adjustments proposed for the merged order would result in changes in Class I and blend prices at outlying locations in the marketing area by amounts ranging from a decrease of 3 cents to an increase of 11 cents.

Producers pooled under the proposed merged order would be paid a uniform price determined by the marketwide utilization of producer milk. The proposed order would discontinue the base-excess payment plan now contained in the Oregon-Washington order and the provisions of the present Oregon-Washington order that accommodate the payments of producers under the State of Oregon's supply management plan.

Two other cooperative associations, Northwest Independent Milk Producers Association and Portland Independent Milk Producers Association, submitted additional proposals that would allow reserve supply units to maintain pool status without meeting delivery requirements. Such units would be obligated to ship milk to distributing plants if a "call" for milk were issued by the market administrator.

DATES: The hearing will convene at 9:00 a.m. on November 17, 1987.

ADDRESSES: The hearing will be held at the Holiday Inn/Portland Airport, 8439 N. Columbia Blvd., Portland, Oregon 97220.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

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

Notice is hereby given of a public hearing to be held at the Holiday Inn/Portland Airport, 8439 N.E. Columbia Blvd., Portland, Oregon 97220 beginning at 9:00 a.m. on November 17, 1987, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Oregon-Washington and Puget Sound-Inland marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the

formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Proposal No. 1, a proposal to combine the Oregon-Washington and Puget Sound-Inland marketing areas under one order, raises the issue of whether the provisions set forth in that proposal would tend to effectuate the declared policy of the Act if they are applied to the proposed merged and expanded marketing area and, if not, what modifications of the proposal would be appropriate.

Issues raised by the proposals set forth herein also include whether the declared policy of the Act would tend to be effectuated by:

(a) Merging under one order the Oregon-Washington and Puget Sound-Inland marketing areas.

(b) Adopting any of the proposed provisions, or appropriate modification thereof, for separate orders or a combined order, including a review of the appropriate pricing and pooling provisions of the order whether separate or combined. The issue of consolidation of the Oregon-Washington and Puget Sound-Inland marketing areas also raises the issue of the appropriate disposition of the producer-settlement funds, marketing service funds and administrative funds accumulated under the respective orders.

List of Subjects in 7 CFR Parts 1124 and 1125

Milk marketing orders, Milk, Dairy products

The authority citation for Parts 1124 and 1125 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Farmers Cooperative Creamery, Jersey-Dari, Inc., Northwest Dairymen's Association, Oregon Jersey Cooperative, Tillamook County Creamery Association and Washington Independent Milk Producer's Association:

Proposal No. 1

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

§ 1124.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1124.2 Pacific Northwest marketing area.

"Pacific Northwest Marketing Area" (hereinafter called the "Marketing Area") means all territory geographically within the places listed below, including all territory fully or partly therein occupied by government (municipal, state or federal) reservations, facilities, installations, or institutions:

Idaho Counties

Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone.

Washington Counties

Adams, Asotin, Benton, Chelan, Clark, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Grays Harbor, Island, King, Kitsap, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, Pierce, San Juan, Skagit, Skamania, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, Whitman and Yakima.

Oregon Counties:

Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, Wheeler, and Yamhill.

§ 1124.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point as provided by this section, by a vendor, from a plant store or through a vending machine). The term "route disposition" does not include:

(a) A delivery to a plant. However, packaged fluid milk products that are transferred to a pool distributing plant from another pool distributing plant, and classified as Class I under § 1124.42(a), shall be considered route disposition from the transferor-plant for the sole purpose of qualifying it as a pool distributing plant under § 1124.7(a), and the transferor-plant shall be assigned in-area dispositions but not in excess of the in-area dispositions of the transferee plant;

(b) A delivery in bulk to a commercial food processing establishment pursuant to § 1124.40(b)(3); or

(c) A delivery to a military or other ocean transport vessel leaving the marketing area, of fluid milk products which originated at a plant located outside the marketing area and were not received or processed at any pool plant.

§ 1124.4 Plant.

"Plant" means the buildings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment, which is maintained and operated primarily for the receiving, handling and/or processing of milk or milk products (including filled milk). Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a "plant" under this definition.

§ 1124.5 Distributing plant.

"Distributing plant" means a plant in which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and that has route disposition in the marketing area during the month.

§ 1124.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1124.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant from which there is route disposition (except filled milk) in the marketing area during the

month equal to not less than 10 percent of receipts of Grade A milk at such plant (exclusive of transfers of packaged fluid milk products from plants qualifying as pool plants pursuant to this paragraph) or diverted therefrom pursuant to § 1124.13: Provided, That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the percentage requirements of this paragraph if the handler submits a written request to the Market Administrator prior to the delivery period for which consideration is requested.

(b) A supply plant from which not less than 40 percent in any month of September through November and not less than 30 percent in any other month, of the total quantity of milk that is physically received at such plant from dairy farmers eligible to be producers pursuant to § 1124.12 (excluding milk received at such plant as diverted milk from another plant, which milk is classified in Class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act) or diverted as producer milk to another plant pursuant to § 1124.13, is shipped in the form of a fluid milk product (except as filled milk) to a pool distributing plant or is a route disposition in the marketing area of fluid milk products (except filled milk) processed and packaged at such plant; *Provided,* That:

(1) With respect to a supply plant operated by a cooperative association, the producer milk of its members which it caused to be delivered directly from their farms to pool distributing plants, shall for the purpose of this paragraph, be considered as a receipt at the cooperative's supply plant and a shipment from the supply plant to pool distributing plants to the extent that the total quantity of the producer milk received at pool distributing plants directly from such producers' farms does not exceed the total quantity of milk shipped during the same month from the cooperative's supply plant to pool distributing plants;

(2) A plant which qualified as a pool plant pursuant to this paragraph in each month of September through February shall be a pool plant in each of the following months of March through August unless a written application is filed with the Market Administrator prior to the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant; and

(3) For the purpose of this paragraph, the operations of two or more supply plants may be combined and considered as the operation of one plant if so requested in writing to the Market Administrator by the handler(s) operating such plants prior to the first day of the month for which such consideration is requested.

(c) Any plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested by the cooperative association and 30 percent or more of the producer milk of members of the cooperative association is physically received during the month in the form of bulk fluid milk products at plants specified in paragraph (a) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which such pool status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under comparable provisions of another Federal Order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(d) The Director of the Dairy Division may reduce or increase up to 10 percentage points from the levels set forth therein the pool plant performance standards in paragraphs (a), (b) or (c) of this section, if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal Order and from which, the Secretary determines, there is a greater quantity of route disposition during the month in such other Federal Order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month it shall continue to be subject to all the provisions of this part until the fourth consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition in this marketing area than in such other marketing area but which plant maintains pooling status for the month under such other Federal order;

(4) A plant qualified pursuant to paragraph (b) of this section which also meets the pool plant requirements of another Federal order and from which greater shipments are made during the month to plants regulated under such other order than are made to plants regulated under this order;

(5) A distributing plant from which total route disposition (except filled milk) in the marketing area during the month averages 300 pounds or less per day; or

(6) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk products for Grade A disposition.

§ 1124.8 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which during the month an average of more than 300 pounds daily of fluid milk products is disposed of as route disposition in the marketing area.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are moved to a pool plant during the month.

(e) "Exempt distributing plant" means a plant, other than a pool supply plant or a regulated plant under another Federal order that meets all the requirements for

status as a pool distributing plant except that its route disposition (exclusive of filled milk) in the marketing area in the month does not exceed an average of 300 pounds daily. For purposes of this paragraph, route disposition shall not include receipts from a transferor-plant pursuant to the proviso of § 1124.3(a).

§ 1124.9 Handler.

"Handler" means:

(a) The operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it caused to be diverted for the account of such cooperative association from a pool plant to a nonpool plant, or pursuant to § 1124.40(b)(3);

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) The operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) The operator of an other order plant from which route disposition is made in the marketing area during the month;

(g) The operator of an unregulated supply plant; and

(h) The operator of an exempt distributing plant.

§ 1124.10 Producer-handler.

"Producer-handler" means a person who is engaged in the production of milk and also operates a plant from which during the month an average of more than 300 pounds daily of fluid milk products, except filled milk, is disposed of as route disposition within the marketing area and who has been so designated by the market administrator upon his determination that all of the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until canceled pursuant to paragraph (c) of this section. Any state institution shall be a producer-handler exempt from the provisions of this section and §§ 1124.30 and 1124.32 with respect to milk of its own production and receipts from pool plants processed or received for consumption in State institutions and with respect to movements of milk to or from a pool plant.

(a) *Requirements for designation.* (1) The producer-handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles and processes milk received from his milk production resources and facilities (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in his capacity as a dairy farmer).

(2) The producer-handler neither receives at his designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of his milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than (i) his designated milk production resources and facilities, (ii) pool plants within the limitation specified in paragraph (c)(2) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) Designation of any person as a producer-handler following a cancellation of his prior designation shall be preceded by performance in accordance with paragraph (a) (1), (2), and (3) of this section for a period of 1 month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler. However, for purposes of this paragraph any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply for the producer-handler's operation as such shall not be considered a part of his milk production resources and facilities; and

(2) As milk handling, processing and distributing resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under any of the conditions set forth in paragraph (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraph (a) (1), (2), and (3) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(1) Milk from the designated milk production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the designated milk production facilities and resources, with the exception of purchases from pool plants in the form of fluid milk products which do not exceed in the aggregate a daily average during the month of 100 pounds.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled and the effective dates of producer-handler

status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1124.11 [Reserved]

§ 1124.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1124.9(c); or

(3) Diverted from a pool plant in accordance with § 1124.13;

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1124.44(a)(9)(iii) and the corresponding step of § 1124.44(b);

(3) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such order;

(4) Any person who during the month has disposed of as route disposition or to consumers at the farm an average of more than 110 pounds daily of fluid milk or fluid cream products; and

(5) Any person (known as a dairy farmer for other markets) whose milk was received at a nonpool plant or a commercial food processing establishment during the month as other than producer milk under this or any other Federal milk order.

§ 1124.13 Producer milk.

"Producer milk" or "milk received from producers" means skim milk and butterfat in milk produced by producers which is received for the account of a handler as follows:

(a) With respect to receipts at a pool plant, producer milk shall include:

(1) Milk received at such plant directly from producers;

(2) Milk diverted from such pool plant to a nonpool plant or pursuant to § 1124.40(b)(3) for the account of the operator of the pool plant, subject to the conditions set forth in paragraph (c) of this section; and

(3) Milk received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1124.9(c) for all purposes other than those specified in paragraph (b)(2)(i) of this section;

(b) With respect to milk for which a cooperative association is a handler in a capacity other than as the operator of a pool plant, producer milk shall include:

(1) Milk diverted from a pool plant to a nonpool plant or pursuant to § 1124.40(b)(3) for the account of the cooperative association, subject to the conditions set forth in paragraph (c) of this section; and

(2) Milk for which the cooperative association is a handler pursuant to § 1124.9(c) to the following extent:

(i) For purposes of reporting pursuant to §§ 1124.30(c) and 1124.31(a) and making payments to producers pursuant to § 1124.73(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler;

(c) With respect to diversions to nonpool plants or pursuant to § 1124.40(b)(3):

(1) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1124.9(b) from pool distributing plants to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the producer milk which the association or its agent causes to be delivered to pool distributing plants, or diverted therefrom. No percentage limit shall apply during the months of May through August;

(2) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1124.9(b) from pool supply plants to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the producer milk which the association or its agent causes to be delivered to all such pool supply plants or diverted therefrom during the month;

(3) A handler, other than a cooperative association, operating a pool distributing plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the milk received at or diverted from such handler's pool distributing plant from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month. No percentage limit shall apply during the months of May through August;

(4) A handler, other than a cooperative association, operating a pool supply plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the total milk received at or diverted from such pool plant during the month from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month;

(5) Milk diverted in excess of the limits specified shall not be considered producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler during the month;

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of their combined deliveries of producer milk which the associations cause to be delivered to pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning overdiverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(7) For purposes of location adjustments pursuant to §§ 1124.52 and 1124.75, milk diverted to a nonpool plant or pursuant to § 1124.40(b)(3) shall be priced at the location of the plant or commercial food processing establishment to which diverted; and

(d) In the case of any bulk tank load of milk originating at farms and subsequently divided among plants, the proportion of the load received at each

plant shall be prorated among the individual producers involved on the basis of their respective percentage of the total load.

§ 1124.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1124.40(b)(1) from any source other than producers, handlers described in § 1124.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1124.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1124.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1124.40(b)(1)) for which the handler fails to establish a disposition.

§ 1124.15 Fluid milk products.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, mixtures of cream and milk or skim milk containing less than 15 percent butterfat (including those which are sterilized or aseptically packaged), filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use and milk or milk products (including filled milk) that are sterilized and packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1124.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 15 percent or more butterfat, with or without the addition of other ingredients.

§ 1124.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

§ 1124.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act".

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

§ 1124.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1124.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

Handler Reports

§ 1124.30 Reports of receipts and utilization.

On or before the 9th day of each month each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk received directly from producers, showing separately any milk of own-farm production;

(ii) Milk received from a cooperative association pursuant to § 1124.9(c);

(iii) Fluid milk products and bulk fluid cream products received from other pool plants showing filled milk separately;

(iv) Other source milk showing filled milk separately; and

(v) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1124.40(b)(1).

(2) The utilization of all skim milk and butterfat required to be reported, including separate statements of quantities in route disposition inside and outside the marketing area.

(b) Each producer-handler shall report:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk of own-farm production;

(ii) Receipts of fluid milk products and fluid cream products from pool plants, showing separately receipts in packaged form and in bulk; and

(iii) Other source milk, showing separately any receipts from another dairy farmer.

(2) As specified in paragraph (a)(2) of this section.

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1124.9(b) or (c):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1124.9(b); and

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1124.9(c).

(d) Each handler who operates a partially regulated distributing plant shall report as specified in paragraphs (a) (1) and (2) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include separate statements, respectively, showing the respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area as Class I milk and the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area.

(e) Each handler who operates an other order plant with route disposition of fluid milk products in the marketing area shall report the quantities of skim milk and butterfat in such disposition.

(f) Each handler who operates an exempt plant or an unregulated supply plant shall report as specified in paragraphs (a) (1) and (2) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk.

§ 1124.31 Payroll reports.

On or before the 22nd day of each month handlers shall report to the market administrator as follows:

(a) Each handler with respect to each of his pool plants and each cooperative association which is a handler pursuant to § 1124.9(b) or (c) shall submit his producer payroll for deliveries (other than his own-farm production) in the preceding month which shall show:

(1) The total pounds of milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(2) The amount of payment to each producer and cooperative association; and

(3) The nature and amount of any deductions or charges involved in such payments; and

(b) Each handler operating a partially regulated distributing plant who wishes computations pursuant to § 1124.76(a) to be considered in the computation of his obligation pursuant to § 1124.76 shall submit his payroll for deliveries of Grade A milk by dairy farmers which shall show:

(1) The total pounds of milk and the butterfat content thereof received from each dairy farmer;

(2) The amount of payment to each dairy farmer (or to a cooperative association on behalf of such dairy farmer); and

(3) The nature and amount of any deductions or charges involved in such payments.

§ 1124.32 Other reports.

At such time and in such manner as the market administrator may prescribe, each handler shall report to the market administrator such information in addition to that required under §§ 1124.30 and 1124.31 as may be requested by the market administrator with respect to milk and milk products (including filled milk) handled by him.

Classification of Milk

§ 1124.40 Classes of utilization.

Except as provided in § 1124.42 all skim milk and butterfat required to be reported by a handler pursuant to § 1124.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged inventory of fluid milk products at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more non-milk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In all bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment, or in producer milk diverted to a commercial food processing establishment in Pacific County, Washington, subject to the conditions of § 1124.42(e), at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

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

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in paragraph (c)(1)(iv) of this section.

(iv) Plastic cream, frozen cream and anhydrous milkfat.

(v) Custards, puddings, and pancake mixes;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers; and

(vii) Any milk or milk products sterilized and packaged in hermetically sealed metal or glass containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

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

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1125.15; and

(6) In shrinkage assigned pursuant to § 1125.41(a) to the receipts specified in § 1125.41(a)(2) and in shrinkage specified in § 1125.41(b) and (c).

§ 1125.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1125.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to a nonpool plant or to a commercial food processing establishment pursuant to § 1125.40(b)(3) and milk received from a handler described in § 1125.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1125.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to a nonpool plant or to a commercial food processing establishment pursuant to § 1125.40(b)(3), except that if the operator of the plant or establishment to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operator of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section.

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1124.9 (b) or (c) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of a plant or a commercial food processing establishment pursuant to § 1124.40(b)(3) to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1124.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1124.44(a)(13) and the corresponding step of § 1124.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1124.44(a)(8) or the corresponding step of § 1124.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1124.44(a) (12) or (13) or the corresponding steps of § 1124.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1124.40.

(c) *Transfers and diversions to producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to the transferee's receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1124.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers and diversions to a commercial food processing establishment.* Skim milk and butterfat transferred or diverted to a commercial food processing establishment shall be classified:

(1) Subject to the provisions of § 1124.13(c) and, except as provided in paragraph (e)(2) of this section, as Class II milk if diverted pursuant to § 1124.40(b)(3); or

(2) Transfers or diversions shall be classified as Class I milk unless the market administrator is permitted to audit the records of the commercial food

processing establishment for the purpose of verification.

§ 1124.43 General classification rules.

In determining the classification of producer milk pursuant to § 1124.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1124.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1124.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1124.40, 1124.41, and 1124.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1124.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) For classification purposes, pursuant to §§ 1124.40 through 1124.45, butterfat in skim milk, either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.060 percent unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1124.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1124.9(a) for each of his pool plants separately and of each handler described in § 1124.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1124.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(8)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(5) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1124.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1124.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(7) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1124.40(b) but not in excess of the pounds of skim milk remaining in Class II;

(8) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(6) of this section applies, packaged inventory at the beginning of the month of products specified in § 1124.40(b)(1) that was not subtracted pursuant to paragraph (a) (5), (6), and (7) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products received or acquired for distribution from a producer-handler as defined under this or any other Federal Order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1124.12(b)(5);

(9) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (8)(v) of this section for which the handler requests a classification other than Class I, but not in excess of pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (8)(v), and (9)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(9)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I

at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(8)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentages that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant are of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(8)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(10) Subtract from the pounds of skim milk remaining in each class, in series, beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1124.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(4), (6), and (8)(i) of this section;

(11) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(12) Subject to the provisions of paragraphs (a)(12) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity pro rated, to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (8)(v), (9) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this paragraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this paragraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a) (8)(vi) and (9)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(13) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1124.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(13)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(13)(ii) of this section, should the computations pursuant to paragraphs (a)(13) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plant(s) shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(13)(ii) of this section, should the computations pursuant to paragraphs (a)(13) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the

classification of such products pursuant to § 1124.42(a); and

(15) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(15) of this section and the corresponding step of paragraph (b) of this section.

§ 1124.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1124.44(a)(13) and the corresponding step of § 1124.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1124.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1124.50 Class prices.

Subject to the provisions of § 1124.52, the class prices for the month, per hundredweight of milk, shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.90.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraphs (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1124.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1124.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month but not to exceed the price computed as follows:

(1) Multiply the Chicago butter price pursuant to § 1124.51 by 4.2;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under paragraphs (c) (1) and (2) of this section subtract the make allowance for butter-powder currently used by the Commodity Credit Corporation, United States Department of Agriculture, in computing purchase prices of butter and powder for the dairy price support program.

§ 1124.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1124.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1124.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1124.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1124.52 Plant location adjustment for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone 1 shall include:

(i) The Oregon counties of Benton, Clackamas, Clatsop, Columbia, Douglas, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill;

(ii) The Washington counties of Clark, Cowlitz, Grays Harbor, Island, King, Kitsap, Lewis, Mason, Pacific, Pierce, Skagit, Snohomish, Skamania, Thurston, and Wahkiakum.

(2) Zone 2 shall include:

(i) The Idano counties of Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone;

(ii) The Washington counties of Ferry, Lincoln, Pend Orielle, Spokane, Stevens and Whitman.

(3) Zone 3 shall include: The Washington county of Whatcom;

(4) Zone 4 shall include: The Oregon counties of Coos, Jackson, and Josephine;

(5) Zone 5 shall include:

(i) The Idaho counties of Lewis and Nez Perce;

(ii) The Oregon counties of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Morrow, Sherman, Umatilla, Wallowa, Wasco and Wheeler;

(iii) The Washington counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Okanogan, Walla Walla and Yakima.

(6) Zone 6 shall include: The Washington counties of Clallam, Jefferson and San Juan.

(b) For milk received at a plant from producers and which is classified as Class I milk, the price specified in § 1124.50(a) shall be adjusted by the amount stated in paragraphs (b) (1) and (2) of this section for the location of such plant:

(1) For a plant located within one of the zones described in paragraphs (a) (1) through (6) of this section, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1	No adjustment.
Zone 2	No adjustment.
Zone 3	Minus 3 cents.
Zone 4	Minus 8 cents.
Zone 5	Minus 15 cents.
Zone 6	Minus 15 cents.

(2) For a plant located outside of one of the zones described in paragraphs (a) (1) through (6) of this section, the adjustment snall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof by shortest hard-surfaced highway distance that the plant is located from the nearer of the county courthouse in Spokane, Washington, the Multnomah County Courthouse in Portland, Oregon, or the city hall in Eugene, Oregon;

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (b) of this section, except that the price when adjusted for location shall not be less than the Class III price.

(d) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which is classified as Class I, the price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant determined by the market administrator as follows:

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computations pursuant to § 1124.44 (a)(13) and (b) the pounds of packaged fluid milk products from other pool plants;

(2) Subtract the pounds of bulk fluid milk products received at the transferee-plant from the following sources:

(i) Producers;

(ii) Handlers described in § 1124.9(c); and

(iii) Pool plants at which the same or a higher Class I price applies.

(3) Assign any pounds remaining to transferor-plants in sequence beginning with the plant at which the least adjustment would apply; and

(4) Multiply the pounds so computed for each transferor-plant by the difference in the Class I prices applicable at the transferee-plant and transferor-plant.

§ 1124.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1124.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the pricing constituent that is required.

Uniform Price

§ 1124.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1124.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1124.44(c), by the applicable class prices (adjusted

pursuant to § 1124.52) and add together the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1124.44(a)(15) and the corresponding step of § 1124.44(b) by the class prices applicable at the location of the pool plant, as adjusted by the butterfat differential specified in § 1124.74. In case overage occurs in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, add an amount equal to the value of overage allocated to the transferred quantity at the class price applicable at the pool plant;

(c) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1124.44(a)(8) (i) through (iv) and (vii) and the corresponding step of § 1124.44(b) excluding receipts of bulk fluid cream products from an other order plant;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1124.44(a)(8) (v) and (vi) and the corresponding step of § 1124.44(b);

(e) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price adjusted pursuant to § 1124.52, or the Class II price as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1124.44(a)(10) and the corresponding step of § 1124.44(b);

(f) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1124.44(a)(12) and the corresponding step of § 1124.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by a handler fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order; and

(g) Add or subtract as the case may be, the amount necessary to correct errors as disclosed by the verification of reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

§ 1124.61 Computation of uniform price.

For each month the market administrator shall compute the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1124.60 for all handlers who filed the reports prescribed by § 1124.30 for the month and who made the payments pursuant to § 1124.71 for the preceding month;

(b) Add the aggregate of all minus location adjustments computed pursuant to § 1124.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1124.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1124.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1124.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1124.71 and 1124.76 and out of which he shall make all payments to handlers pursuant to § 1124.72. However, the market administrator shall offset the payment due to a handler from such fund against payments due from such handler.

§ 1124.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of the month during which the skim milk and butterfat were received each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the total amount specified in paragraph (a)(2) of this section:

(1) The sum of:

(i) The total value of milk of the handler for such month as determined pursuant to § 1124.60; and

(ii) For a cooperative association handler, the amount due from other handlers pursuant to § 1124.73(d) but without adjustment for butterfat;

(2) The sum of:

(i) The value of milk received by such handler from producers at the applicable uniform price pursuant to § 1124.73(a)(2) but without adjustments for butterfat;

(ii) The amount to be paid to cooperative associations pursuant to § 1124.73(d) but without adjustment for butterfat; and

(iii) The value at the uniform price for all skim milk and butterfat applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1124.60(f); and

(b) On or before the 25th day after the end of the month, each handler operating a plant specified in § 1124.7(e) (2) and (3), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in the marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in paragraph (b)(1) of this section to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

§ 1124.72 Payments from the producer-settlement fund.

On or before the 18th day after the end of the month during which the skim milk and butterfat were received, the market administrator shall pay to each

handler the amount, if any, by which the amount computed pursuant to § 1124.71(a)(2) exceeds the amount computed pursuant to § 1124.71(a)(1), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1124.71(a), 1124.77, 1124.85, and 1124.86. However, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1124.73 Payments to producers and to cooperative associations.

(a) Each handler shall make payments to each producer for milk received from such producer during the month:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, at not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer; and

(2) On or before the 19th day after the end of each month for milk received from such producers during such month:

(i) At not less than the uniform price for the quantity of milk received, adjusted by the butterfat differential pursuant to § 1124.74 and by any location adjustments applicable under § 1124.75;

(ii) Minus payments made pursuant to paragraph (a)(1) of this section. However, if by such date such handler has not received full payment for such month pursuant to § 1124.72, he shall not be deemed to be in violation of this paragraph if he reduced uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the Market Administrator, however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

(b) The payments required in paragraph (a) of this section shall be made, upon request, to a cooperative association qualified under § 1124.18, or its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this paragraph shall be made on or before 2 days prior to the dates specified in paragraph (a) of this section.

(c) Each handler shall pay to each cooperative association or its duly authorized agent which operates a pool plant for skim milk and butterfat received from such plant:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for skim milk and butterfat received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 17th day after the end of such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class pursuant to § 1124.42(a) by the class price adjusted by the butterfat differential and taking into account any location adjustments as provided by § 1124.52 applicable at the pool plant of the cooperative association or its agent, minus payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler who received milk for which a cooperative association is the handler pursuant to § 1124.9(c) shall pay such cooperative association for such milk received:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for such milk received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for the milk received at not less than the uniform price for all milk adjusted pursuant to §§ 1124.74 and 1124.75(b), minus payments made pursuant to paragraph (d)(1) of this section.

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

(f) In making payments to producers pursuant to this section, each handler, on or before the 19th day of each month shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month:

(1) The identity of the handler and the producer;

(2) The total pounds of milk delivered by the producer and the average butterfat test thereof and the pounds per shipment if such information is not furnished to the producer each day of delivery;

(3) The minimum rate at which payment to the producer is required under the provisions of this section;

(4) The rate per hundredweight and amount of any premiums or payments above the minimum price provided by the order;

(5) The amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(g) In making payments to a cooperative association in aggregate pursuant to this section, each handler upon request shall furnish to the cooperative association, with respect to each producer for whom such payment is made, any or all of the above information specified in paragraph (f) of this section.

§ 1124.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago as reported by the Department for the month.

§ 1124.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment to producers pursuant to § 1124.73(a) subject to the application of § 1124.13(c)(7) appropriate adjustments shall be made per hundredweight of milk received from producers at respective plant locations at the same rate as specified for Class I milk set forth in § 1124.52.

(b) In making payments to a cooperative association pursuant to § 1124.73(d) appropriate adjustments shall be made at the rates specified for Class I milk in § 1124.52 for the location of the plant at which the milk was received from the cooperative association.

(c) For purposes of computations pursuant to §§ 1124.71(a) and 1124.72 the uniform price for all milk shall be adjusted at the rates set forth in § 1124.52 for Class I milk applicable at the location of the nonpool plant from which the milk or filled milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1124.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1124.30(d) and 1124.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1124.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which an equivalent amount of milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1124.60(f) and a credit in the amount specified in § 1124.71(a)(2)(iii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified in paragraph (a)(1)(ii) of this section; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1124.30(d) and 1124.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1124.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1124.74, and like payments made by the operator of a supply plant(s) included in the computations pursuant to paragraph (a)(1) of this section and (ii) any payments to the producer-settlement fund of an other order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as route disposition of Class I milk within the marketing area;

(2) Deduct the respective amount of skim milk and butterfat received at the plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) [Reserved]

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price), and add for the quantity of reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price applicable at the location of the nonpool plant (but not to be less than the Class III price) less the value of such skim milk at the Class III price.

§ 1124.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

§ 1124.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1124.71, 1124.73, 1124.76, 1124.77, 1124.85 or 1124.86 shall be increased 1 percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the fund or to the person to whom the account was due immediately after the charge has been collected.

Administrative Assessment and Marketing Service Deduction

§ 1124.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1124.44(a) (8) and (12) and the corresponding steps of § 1124.44(b), except such other source milk on which no handler obligation applies pursuant to § 1124.60(f); and

(c) Route disposition in the marketing area from a partially regulated

distributing plant that exceeds the Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1124.76(b)(2)(ii).

§ 1124.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1124.73(a)(2), shall make a deduction of 5 cents per hundredweight of milk or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association.

(2) [Reserved]

(3) All milk received at a plant operated by a cooperative association from producers for whom the marketing services set forth below in this paragraph are not being performed by the cooperative association as determined by the market administrator. Such deduction shall be paid by the handler to the market administrator on or before the 16th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers, and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer;

(1) Who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deductions therefore to, a cooperative association;

(2) Whose milk is received at a plant not operated by such association; and

(3) For whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1124.73 (a)(2) the amount per hundredweight on milk authorized by such producer and shall pay, on or before the 18th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

Proposed by Northwest Independent Milk Producers Association and Portland Independent Milk Producers Association:

Proposal No. 2

Modify Proposal No. 1 as follows:

a. In proposed § 1124.9, insert a new paragraph (d), and redesignate the succeeding paragraphs, as follows:

§ 1124.9 Handler.

* * * * *

(d) "A cooperative reserve supply unit" operated by a cooperative association or its agent that does not own or operate a plant, with respect to milk that it receives for its account from the farm of a producer for delivery to a plant or pursuant to § 1124.40(b)(3), if such cooperative has been qualified to receive payments pursuant to § 1124.73 and has been a handler under this or its predecessor order(s) during each of the twelve previous months; *Provided*, That:

(1) The cooperative has filed a request with the market administrator for cooperative reserve supply unit status at least 15 days prior to the first day of the month in which such status is desired to be effective. Once qualified as a cooperative reserve supply unit pursuant to this paragraph, such status shall continue to be effective, unless the cooperative requests termination prior to the first day of the month that change of status is requested, or the cooperative fails to meet all conditions pursuant to this paragraph.

(2) The cooperative reserve supply unit supplies fluid milk products to pool distributing plants located within an area designated by the market administrator as the "call area" in compliance with any announcement by the market administrator requesting a minimum level of shipments as further provided below:

(i) The market administrator may require such supplies of bulk fluid milk from cooperatives with cooperative reserve supply unit status within the "call area" whenever the market administrator finds that milk supplies for Class I use at pool distributing plants within the "call area" are needed for plants qualifying pursuant to § 1124.7(a). Before making such a finding, the market administrator shall investigate the need for such shipments either on the market administrator's own initiative or at the request of interested persons. If the market administrator's investigation shows that such shipments might be appropriate, the market administrator shall issue a notice stating that a shipping announcement is being considered and inviting data, views, and arguments with respect to the proposed shipping announcement.

(ii) Failure of a cooperative reserve supply unit handler to comply with any announced shipping requirements, including making any significant change in the cooperative's marketing operation that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of cooperative reserve supply unit status for the cooperative pursuant to this paragraph. A cooperative losing cooperative reserve supply unit status in this manner or a cooperative that requests termination of such status may not again qualify for such status pursuant to this paragraph for a period of one year from the date on which cooperative reserve supply unit status was last held.

(e) The operator of a partially regulated distributing plant.

(f) A producer-handler;

(g) The operator of an other order plant from which route disposition is made in the marketing area during the month;

(h) The operator of an unregulated supply plant; and

(i) The operator of an exempt distributing plant.

b. Modify proposed § 1124.12(a)(2) as follows:

§ 1124.12 Producer.

(a) * * *

(2) Received by a handler described in § 1124.9(c); or

* * * * *

c. In proposed § 1124.13, modify paragraph (b)(2), insert a new paragraph (c)(3), modify and redesignate proposed paragraphs (c)(3) and (4), and redesignate the succeeding paragraphs, as follows:

§ 1124.13 Producer milk.

* * * * *

(b) * * *

(2) Milk for which the cooperative association is a handler pursuant to § 1124.9(c) or (d) to the following extent:

* * * * *

(c) * * *

(3) The milk of any producer may be diverted by a cooperative reserve supply unit or its agent for its account pursuant to § 1124.9(d) to nonpool plants or pursuant to § 1124.40(b)(3). No percentage limits shall apply in any month;

(4) A handler, other than a cooperative association, operating a pool distributing plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the milk

received at or diverted from such handler's pool distributing plant from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1), (c)(2) or (c)(3) of this section and for which the operator of such plant is the handler during the month. No percentage limit shall apply during the months or May through August.

(5) A handler, other than a cooperative association, operating a pool supply plant may divert therefrom for his account to nonpool plants or pursuant to § 1124.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the total milk received at or diverted from such pool plant during the month from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1), (c)(2) or (c)(3) of this section and for which the operator of such plant is the handler during the month;

(6) Milk diverted in excess of the limits specified shall not be considered producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler during the month;

(7) Two or more cooperative associations may have their allowable diversions computed on the basis of their combined deliveries of producer milk which the associations cause to be delivered to pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning overdiverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(8) For purposes of location adjustments pursuant to §§ 1124.52 and 1124.75, milk diverted to a nonpool plant or pursuant to § 1124.40(b)(3) shall be priced at the location of the plant or commercial food processing establishment to which diverted; and

(d) In the case of any bulk tank load of milk originating at farms and subsequently divided among plants, the proportion of the load received at each plant shall be prorated among the individual producers involved on the basis of their respective percentage of the total load.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Jerry L. Colburn, 16 West Harrison Street, Seattle, Washington 98119, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Oregon-Washington and Puget Sound-Inland Marketing Areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on October 26, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87-25080 Filed 10-28-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-138-AD]

Airworthiness Directives; SAAB Fairchild SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD), applicable to certain SAAB Fairchild Model SF-340A series airplanes, which currently requires special initialization techniques for the Attitude Heading Reference System (AHRS) to prevent incorrect attitude indications. This action would provide an optional modification which would allow use of a simplified initialization technique for the AHRS.

DATES: Comments must be received no later than December 20, 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-138-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from SAAB Aircraft, Product Support, S-58188, Linkoping, Sweden. 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–138–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

On May 31, 1985, FAA issued AD 85–11–51, Amendment 39–5145 (50 FR 40189; October 2, 1985), to require special initialization techniques for AHRS to prevent erroneous attitude indications. This technique requires that both engines are running before the initialization is made.

Since issuance of that AD, the manufacturer has developed a modification, which involves changing the backup power from the battery bus to the hot battery bus, which permits the initialization to be made before the engines are started or after the first engine has been started. The modification is described in SAAB Service Bulletin SF–340–34–038, dated October 24, 1986. The revised initialization procedure is described in SAAB Aircraft Operations Manual (AOM) Bulletin Number 24.

The FAA has determined that the modification as described in SAAB Service Bulletin SF–340–34–038, dated October 24, 1986, is acceptable as an optional initialization technique in complying with AD 85–11–51.

This airplane model is manufactured in Sweden 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 amend the existing AD to permit the optional installation of Modification 1438 in accordance with the service bulletin previously amendment mentioned, and use of the optional initialization techniques in accordance with SAAB AOM Bulletin Number 24.

It is estimated that 50 airplanes of U.S. registry would be affected by this revision, that it would take approximately 2 manhours per airplane to accomplish the optional modification, and that the average labor cost would be $40 per manhour. Based on these figures, the cost for an operator to incorporate the optional modification is estimated to be $80/airplane.

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 the proposed modification is optional. 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 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 amending AD 85–11–51, Amendment 39–5145 (50 FR 40189; October 2, 1985), as follows:

(1) Reidentify paragraph B. as paragraph C.

(2) Add a new paragraph B. as follows:

B. Accomplishment of Modification 1438 in accordance with SAAB Service Bulletin SF 340–34–038, dated October 24, 1986, or an equivalent production change constitutes terminating action for requirements of paragraph A. of this AD. Thereafter, the AHRS initialization shall be accomplished in accordance with SAAB Aircraft Operations Manual (AOM) Bulletin Number 24. A copy of AOM Bulletin Number 24 must be readily available to the crew during operations.

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

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–24980 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–139–AD]

Airworthiness Directives; British Aerospace Model DH/BH/HS 125 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 DH/BH/HS 125 series airplanes, that would require a one-time structural inspection of the fuselage skin beneath the canopy blister and the wing skin at the outboard flap hinge fitting for fatigue cracks. These inspections for cracks would be required as a result of an HS 125 structural audit by the manufacturer. Failure to detect and repair fatigue cracking could result in inability of the structure to meet required loads.

DATE: Comments must be received no later than December 20, 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–139–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Service Bulletin Librarian, 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 M. 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-139-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom (UK) 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 British Aerospace (BAe) Model BAe-125 series airplanes. As a result of an HS 125 structural audit by the manufacturer, additional inspections for cracks have been identified. Fatigue cracking of the wing bottom skin at the flap outboard hinge fitting and the fuselage skin beneath the canopy blister could result in the inability of the structure to meet required loads. British Aerospace has issued Service Bulletins 53-63 and 57-67, both dated February 27, 1987, which describe structural inspections for cracks in these areas. The United Kingdom CAA has issued Airworthiness Directive Notice No. 89, which requires inspection for cracks in accordance with the BAe service bulletins.

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 inspections for structural cracks in accordance with the previously mentioned service bulletins.

It is estimated that 30 airplanes of U.S. registry would be affected by this AD, that 4 airplanes would take approximately 2½ manhours per airplane and 26 airplanes would take approximately ½ hour 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 $920.

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 ($100). 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) PLC: Applies to Model DH/BH/HS 125 series airplanes listed in BAe 125 Service Bulletins 57-67 and 53-63, both dated February 27, 1987, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent undetected fatigue cracking in the structure, which could result in the inability of the structure to meet required loads, accomplish the following:

A. For airplane serial numbers as listed in BAe-125 Service Bulletin 57-67, dated February 27, 1987: Prior to the accumulation of 12,000 flights, or within 8 months after the effective date of this AD, whichever occurs later, visually inspect the wing bottom skin for cracks at the flap outboard hinge fitting in accordance with that service bulletin. Repair detected cracks prior to further flight in accordance with an FAA approved method.

B. For airplane serial numbers as listed in BAe-125 Service Bulletin 53-63, dated February 27, 1987: Prior to the accumulation of 7,500 flights, or within 6 months after the effective date of this AD, whichever occurs later, visually inspect the fuselage skin beneath the canopy blister for cracks in accordance with that service bulletin. Repair detected cracks prior to further flight in accordance with an FAA approved method.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Service Bulletin Librarian, 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 October 21, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24981 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-ASW-16]

Airworthiness Directives; Fairchild (Swearingen) Models SA226-TC and SA226-AT Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to revise Airworthiness Directive (AD) 80-09-08R1 (Amendment 39-3883) for Fairchild (Swearingen) Models SA226-TC and SA226-AT airplanes, which requires a repetitive 250-hour inspection and adjustment as required, of the cargo door latches. This proposal would provide for installation of an improved bottom latch as an alternate means of compliance that when installed will relax the inspection interval from 250 hours to 1,200 hours. It is estimated that over 70 percent of the fleet already have installed the improved bottom latch receptacle. The proposal also would

clarify the serial number effectivity for this AD.

DATES: Comments must be received on or before November 30, 1987.

ADDRESSES: Fairchild Aircraft Corporation Service Bulletins (SB's) 226–52–009 (revised June 12, 1987) and 226–52–008 (revised April 6, 1984) applicable to this AD may be obtained from Fairchild Aircraft Corporation, P.O. Box 790490, San Antonio, Texas 78279–0490, Telephone (512) 824–9421 or the Rules Docket at the address below. Send comments on the proposal in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 80–ASW–16, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FUTHER INFORMATION CONTACT: Mike Mathias, Airplane Certification Branch, ASW–150, Aircraft Certification Division, FAA, Fort Worth, Texas 76193–0150, Telephone (817) 624–5160.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 80–ASW–16, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Since issuance of AD 80–09–08 Amendment 39–3758 (45 FR 29004; May 1, 1980) on March 20, 1980, applicable to Fairchild (Swearingen) SA226–AT and SA226–TC airplanes, no significant latching mechanism hardware or adjustment problems have been uncovered by AD inspection. A statistical analysis of this service experience indicates that the AD repetitive inspection interval can safely be relaxed from 250 hours to 1,200 hours, providing an improved bottom latch for the cargo door has been installed. The FAA has determined that AD 80–09–08 should be amended to include this provision.

The FAA has determined there are approximately 293 airplanes affected by this proposal. The cost of each repetitive inspection is $34. The total estimated inspections performed annually are 1,500 at a total cost of $51,000. Adoption of this proposal will reduce these annual values to 300 total inspections at a total cost of $10,200. Requiring the estimated, remaining 30 percent of the fleet (approximately 90 aircraft) to comply with SB 226–52–008 (improved bottom latch assembly) will have a nonrecurring cost of $36,720 which is offset by the recurring annual inspection savings of $40,800.

Because the cost reduction applies directly to the operational cost of the airplane owners and operators, there is an economic benefit (instead of impact) as a result of this proposal. No economic impact to small entities is foreseen as a result of this amendment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

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

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 amending AD 80–09–08, Amendment 39–3758, as follows:

Change the applicability statement to read as follows:

Fairchild Aircraft Corp. (Swearingen): Applies to Models SA226–TC (S/N TC201 thru TC419) and SA226–AT (S/N AT001 thru AT074) certificated in any category. Compliance required before pressurized flight or prior to obtaining 250 unpressurized flight hours after compliance with emergency telegraphic AD T80SW14 dated March 15, 1980, amended.

Change paragraph (h) to read as follows:

(h) Repeat the inspections and adjustments required by paragraphs (a) through (g) of this AD as follows:

(1) Each 1200 flight hours for airplanes which have been modified per Fairchild SB 226–52–008, revised April 6, 1984, or

(2) Each 250 flight hours for airplanes that have not been modified per the above SB.

Change the NOTE to read as follows:

Note.—Fairchild (Swearingen) SB 226–52–009 revised June 12, 1987, refers to this same subject.

Add a new paragraph to read as follows:

(j) An equivalent means of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, Southwest Regional Office, FAA, Fort Worth, Texas 76193–0150; Telephone (817) 624–5150.

All persons affected by this AD may obtain copies of the document(s) referred to herein upon request to Fairchild Aircraft Corporation, P.O. Box 790490, San Antonio, Texas 78279–0490; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Delete the sentence which reads:

Alternate methods of complying with this AD must be approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, FAA, Fort Worth, Texas.

This amendment revises AD 80–09–08R1, Amendment 39–3883 (45 FR 56333; August 25, 1980).

Issued in Kansas City, Missouri on October 15, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–24973 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71 and 75

[Airspace Docket No. 87-ASW-44]

Proposed Alteration of a VOR Federal Airway and Jet Routes; New Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Federal Airway V-68, Jet Routes J-19, J-102, J-142 and establish new Jet Route J-231 located in the vicinity of Albuquerque, NM. The FAA is redesigning the airspace in the Albuquerque area to improve the flow of traffic in the terminal areas of several airports. This would reduce controller workload.

DATES: Comments must be received on or before December 14, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 87-ASW-44, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-44." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposals

The FAA is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the description of VOR Federal Airway V-68 and Jet Routes J-19, J-102, J-142, and add new Jet Route J-231 located in the vicinity of Albuquerque, NM. The FAA is redesigning the airspace in that area to improve the traffic flow and reduce delays in several terminal areas. This action would significantly reduce controller workload. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal Airways, Jet routes.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-68 [Amended]

By removing the words "Hobbs, NM, via INT Hobbs 120° and Midland, TX, 312° radials; Midland;" and by substituting the words "Hobbs, NM; Midland, TX;"

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

3. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

4. Section 75.100 is amended as follows:

J-19 [Amended]

By removing the words "Zuni; Las Vegas, NM;" and substituting the words "Zuni; INT Zuni 059°T(045°M) and Las Vegas, NM, 268°T(255°M) radials; Las Vegas;"

J-102 [Revised]

From Zuni, NM; Gallup, NM, Alamosa, CO; Lamar, CO; to Salina, KS.

J–142 [Amended]

By removing the words "to Socorro." and by substituting the words "Socorro; Anton Chico, NM; to Borger, TX."

J–231 [New]

From St. Johns, AZ; Anton Chico, NM; to Liberal, KS.

Issued in Washington, DC, on October 21, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–24977 Filed 10–28–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 87–AWA–33]

Proposed Alteration of Jet Routes; Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Jet Routes J–25/HL–482 and J–107/HL–484 located in the vicinity of Gopher, MN. The FAA has proposed to extend these jet routes into Canadian territory. The extension of J–25/HL–482 and J–107/HL–484 has been coordinated and approved by Transport Canada. This action would improve traffic flows in the Minneapolis, MN, area, and reduce controller workload.

DATES: Comments must be received on or before December 14, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 87–AWA–33, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AWA–33." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend Jet Route J–25/HL–482 from Gopher, MN, to Winnipeg, Canada, and extend J–107/HL–484 from Pembina, ND, to Sioux Narrows, Canada. This action would aid flight planning, improve traffic flow and reduce controller workload. In addition, Transport Canada supports this action because of its positive impact on the Winnipeg Area Control Center Flow Management Program for the Winnipeg terminal area. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–25 [Amended]

By removing the words "to Gopher, MN." and substituting the words "Gopher, MN; Brainerd, MN; to Winnipeg MB, Canada. The airspace within Canada is excluded."

J–107 [Amended]

By removing the words "to Kenora, ON, Canada." and substituting the words "to Sioux Narrows, ON, Canada."

Issued in Washington, DC, on October 21, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-24976 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL-3281-1]

Designation of Areas for Air Quality Planning Purposes; Ohio

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the attainment status designation for part of Clark County in Ohio relative to the total suspended particulate (TSP) National Ambient Air Quality Standard (NAAQS). The present TSP air quality status for part of Clark County is nonattainment of the secondary NAAQS. In this notice, USEPA is proposing to redesignate the present secondary nonattainment area to attainment, thus, making the entire county full attainment.

The purpose of this notice is to discuss the results of USEPA's review of the State's request and supporting data and to solicit comments on these data and USEPA's proposed action.

DATE: Comments must be received by November 30, 1987.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43266-0149.

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

FOR FURTHER INFORMATION CONTACT: Delores Sieja, U.S. Environmental Protection Agency, Region V, Regulatory Analysis Section, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (the Act). This section directed each State to submit, to the Administrator of USEPA, a list of the attainment status for all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and made necessary amendments in the **Federal Register** on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

The primary TSP NAAQS is violated when, in a year, either: (1) The geometric mean value of TSP concentrations exceeds 75 micrograms per cubic meter of air (75 $\mu g/m^3$) (the annual primary standard); or (2) the 24-hour concentration of TSP exceeds 260 $\mu g/m^3$ more than once (the 24-hour standard). The secondary TSP NAAQS is violated when, in a year, the 24-hour concentration exceeds 150 $\mu g/m^3$ more than once.

USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less (PM_{10}). However, EPA will continue to process redesignations of areas from nonattainment to attainment or unclassifiable for TSP in keeping with past policy because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the attainment status of areas. The July 1, 1987, notice (p. 24682, column 1) describes USEPA's transition policy regarding TSP redesignations.

USEPA's criteria for supportable redesignation requests, as they pertain to TSP, are discussed most recently in the following memorandum:

• September 30, 1985, from Gerald Emison, Director, Office of Air Quality Planning and Standards (OAQPS), to the Regional Air Division Directors entitled "Total Suspended Particulate (TSP) Redesignations."

USEPA's policy relevant to TSP redesignations is summarized as follows:

• Eight consecutive quarters of the most recent, quality assured ambient air quality data must indicate no violation of the TSP NAAQS. The monitors must be placed at points of expected maximum TSP impact, and the monitoring network must be extensive enough to produce fully representative data. If monitoring data are not representative, dispersion modeling must be used to determine the impact of a source.

• Improvements in air quality must be attributable to federally enforceable or permanent emission reductions. An exception to the requirement for a fully approved and implemented SIP control strategy can be made if the physical circumstances and long-term economic factors are such that the approved and implemented measures have the same weight as a fully approved SIP control strategy for the purpose of demonstrating attainment. For example, the permanent closing of the major emitting sources, road paving to eliminate fugitive emissions, or other irreversible actions can be such measures.

• Emission reductions and the resultant impact on air quality cannot be temporary or the result of economic downturn. It must be highly unlikely that emission rates will increase at units operating below their allowable emission rates or that any increase will result in a violation of the NAAQS.

• Dispersion techniques cannot be responsible for the improvement in air quality. Sources in the nonattainment area must be reviewed for consistency with the requirements of USEPA's July 8, 1985 (50 FR 27892), revised stack height regulations.

On July 8, 1985, USEPA promulgated a newly revised stack height regulation under section 123 of the Clean Air Act. This regulation is intended to ensure that air pollution emission limitations required under applicable SIPs are not affected hy dispersion techniques. The Stack Height Regulations can affect a redesignation because improvements in air quality which are due tn "non-creditable" dispersion cannot form the basis for a redesignation. According to the regulation, dispersion technique means any method which attempts to affect the concentration of a pollutant in the ambient air by—

(1) Using that portion of a stack which exceeds good engineering practice (GEP) stack height:

(2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(3) Increasing final exhaust gas plume rise by manipulating source process parameters and other methods. Included is the merging of exhaust gas streams.

On October 5, 1978 (43 FR 46011) Clark County was designated as follows:

Secondary Nonattainment—The area south and east of the line determined by: Route 41 east from the Clark-Miami County Line east to Route 235,

north to the Clark-Champaign County Line; and bounded by the north-south line determined by: State Route 72 south to Interstate 70, Interstate 70 west to Old Mill Road, south to Fairfield Pike, north-east to Cross Road, east to Route 68, south to Jackson Road, east to Mosier Road, south to Clark-Greene County Line.

Attainment—Remainder of County

On January 5, 1987, the State of Ohio requested that USEPA redesignate Clark County to attainment for the entire county.

To support its request that the secondary nonattainment area be redesignated to attainment, the State submitted: (1) Data collected at the three monitoring sites in the county for the period October 1984–September 1986, (2) a list of emission reductions due to facility shutdowns, (3) filter analyses (optical microscopy), and (4) a discussion of stack height dispersion techniques which cannot be credited for evaluating this redesignation. USEPA supplemented these data with, among other things, monitoring data from Storage and Retrieval of Aerometric Data (SAROAD) from 1976 to 1986.

USEPA's Evaluation of Technical Support Data

The basis of the present secondary nonattainment classification for a portion of Clark County was violations at two (New Carlisle Site 364760001G01 and Springfield Site 366380001G01) of the three monitoring sites in the county (remaining site—Urbana Road 361260001G01). For the most recent eight consecutive quarters of air quality monitoring data, no violations of the primary or secondary TSP NAAQS were recorded at these three monitoring sites. The State attributed improvement in TSP levels near the New Carlisle monitoring site to the permanent paving of a gravel alley near the monitor. No major industrial facilities are located in New Carlisle and analyses of the TSP on the filters (prior to paving) indicated fugitive dust from the alley. In the Springfield area the State attributed improvement to the permanent shutdowns of the Ohio Edison Rockaway Plant in 1981, the Ohio Edison Mad River Plant in 1982, the Wickham Piano Plate Company in 1984, and the J&J Foundry in 1982. For all of these permanent shutdowns, except for the paved alley, Ohio must submit evidence showing that these shutdowns are permanent and federally enforceable during the public comment on today's rulemaking notice. This evidence must be in the form of documentation showing that if these sources were to start up, why they must be treated as new sources under Ohio's new source review permitting requirements.

The monitoring network was considered adequate for this redesignation request because: (1) No major TSP emitting sources operate in the county, and (2) the Springfield monitor represents general TSP levels in the only urban area (that being the City of Springfield). No facility in Clark County has allowable emissions greater than 100 tons per year (TPY) and less than 50 TPY are actually emitted from all the traditional (point) sources in the area being redesignated. USEPA considers it highly unlikely that any increase in emissions at units currently operating below their allowable emission rates, will result in a violation of the NAAQS. The impact of the stack height regulations was assessed, and USEPA has determined that the improvements in air quality were not inconsistent with the stack height regulations.

Based on monitoring data, permanent source shutdowns and an adequate monitoring network, USEPA believes an adequate explanation for air quality improvements in the county have been provided to support the State's redesignation request.

Proposed Action

Attainment—Entire County

If the State provides during the public comment period evidence that all the source shutdowns are permanent and irreversible, then USEPA propose to approve the redesignation. If Ohio does not supply such evidence. USEPA will disapprove Ohio's request to redesignate part of Clark County from secondary nonattainment to attainment.

Note, the source shutdowns (both total and partial facility) identified in this notice were relied on by the State to explain the improvement in these areas and, thus, are an integral part of the State's redesignation request. Since these shutdowns are a necessary condition for the redesignations, these emission reduction credits are hereby used and cannot be applied again. As a result, if these particular sources wish to resume operation, then they must first satisfy the applicable new source review requirements.

All interested parties are invited to submit comments on this proposed action notice. USEPA will consider all comments received within 30 days of publication of this notice.

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), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Authority: 42 U.S.C. 7401–7642.

Dated: June 29, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87–24569 Filed 10–28–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 86

[FRL–3283–8]

Amendments to Regulations Governing Test Procedures for Light-Duty Vehicles and Light-Duty Trucks and Selective Enforcement Auditing of New Light-Duty Vehicles, Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period for Notice of Proposed Rulemaking (NPRM).

SUMMARY: The November 2, 1987 date for submission of all written comments concerning the NPRM published on September 3, 1987 (52 FR 33560), and entitled "Amendments to Regulations Governing Test Procedures for Light-Duty Vehicles (LDVs) and Light-Duty Trucks (LDTs) and Selective Enforcement Auditing (SEA) of New LDVs, LDTs and Heavy-Duty Engines (HDEs)," has been extended to December 2, 1987. EPA has extended the comment period an additional month as a result of requests by the Motor Vehicle Manufacturers Association and several manufacturers to allow for more time to fully evaluate the NPRM.

EPA is proposing several technical and procedural amendments to the regulations at 40 CFR Part 86, Subparts B, G and K. These regulations govern the Federal Test Procedure (FTP) for new gasoline-fueled and diesel-fueled LDVs and LDTs, and the SEA of new LDVs, LDTs and HDEs. The main purpose of these amendments is to delete from the SEA requirements of Subpart K the mandatory reporting of manufacturers' LDT and HDE internal quality assurance emission test data. It is expected that the data will still be submitted voluntarily to EPA. Another purpose is to ensure a common basis for diesel hydrocarbon measurements during the FTP for LDVs and LDTs as specified in Subpart B. In addition, these amendments are intended to clarify

specific aspects of the existing regulations and to improve the efficiency of the LDV, LDT and HDE SEA program.

DATES: All written comments should be submitted on or before December 2, 1987, to the address indicated below. EPA proposes to make these amendments effective 30 days after the date of promulgation of the final rule in the **Federal Register.**

ADDRESSES: Send written comments to: Public Docket EN–86–17, Central Docket Section, Environmental Protection Agency, Room 4, South Conference Center (LE–131), Waterside Mall, 401 M Street SW., Washington, DC 20460. If possible, a copy of the written comments also should be submitted to the EPA contact listed below.

Copies of materials relevant to this rulemaking proceeding are contained in Public Docket EN–86–17 at the Central Docket Section of the U.S. Environmental Protection Agency, Room 4, South Conference Center (LE–131), Waterside Mall, 401 M Street SW., Washington, DC 20460, and are available for public inspection between 8:00 a.m. to 3:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Sinkez or Mr. Sean Conley, Manufacturers Operations Division (EN–340–F), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Phone: (202) 382–4104.

Date: October 22, 1987.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 87–25037 Filed 10–28–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 146

[FRL–3283–6]

Underground Injection Control Program; Dual-Completion Monitoring Mechanical Integrity Test for Dual-Completion Wells; Interim Approval

AGENCY: Environmental Protection Agency.

ACTION: Interim Approval and request for comments.

SUMMARY: The Director of the Office of Drinking Water of the U.S. Environmental Protection Agency (EPA) intends to grant Interim approval ending two years from October 29, 1987, for use of fluid level monitoring in conjunction with oil/water cut monitoring as an alternative to the tests specified in § 146.8(b) to test the mechnical integrity of a well's tubular goods. The Agency intends this approval to apply only to dual-completion Class II injection wells in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma. This test in referred to as the dual-completion monitoring test. A dual-completion well is used to simultaneously produce oil and dispose of brines.

At this time, EPA believes this alternative test to be appropriate for dual-completion wells. To better define its use, EPA requests comments and further data on the viability of this alternative. During the two-year interim approval, the Agency intends to study the test to determine whether it provides comparable results to the test currently specified in § 146.8l Based on this analysis, the Agency will then issue a final determination on its use.

DATES: The interim approval period for this alternate mechanical integrity test becomes effective November 31, 1987. Written comments and referenced data may be submitted, and will be considered by EPA in making its decision on whether to grant final approval. EPA requests that such written comments and any referenced data be submitted by April 29, 1989.

ADDRESSES: Comments should be addressed to Eric J. Callisto, Office of Drinking Water (WH–550A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. A copy of the comments and technical data relevant to this test will be available for review during normal business hours at the EPA, Room 1013 East Tower, 401 M Street, S.W., Washington, D.C.; EPA Region VIII, 999 18th Street, Room 4P–111, Denver, Colorado; EPA Region VII, 726 Minnesota Avenue, Room 201, Kansas City, Kansas; and EPA Region VI, 1445 Ross Avenue, Dallas Texas.

FOR FURTHER INFORMATION CONTACT: Bruce J. Kobelski, Office of Drinking Water (WH–550A), U.S. EPA, Washington, D.C. 20460, at: (202) 382–7275 or Paul S. Osborne, Drinking Water Branch, U.S. EPA Region VIII, 999 18th Street, Suite 500 (8WM–DW) Denver, Colorado 80202 at: (303) 293–1418.

SUPPLEMENTARY INFORMATION:

I. Background

The Safe Drinking Water Act (SDWA) (42 U.S.C. 300h, *et seq.*) protects underground sources of drinking water (USDW) from contamination by underground injection. One of the cornerstones of the underground Injection Control (UIC) program is the mechnical integrity of the wells. Mechanical integrity is defined as the absence of significant leaks in the casing, tubing or packer, and the absence of significant fluid movement into an undergound source of drinking water through vertical channels adjacent to the injection well bore as measured by particular tests. Acceptable methods of evaluating mechnical integrity are specified in § 146.8 for State programs, administered by EPA (direct implementation), and in the program applications of the States with primary enforcement responsibility for Class II Wells. Section 146.8(d) states that the Regional Administrator may allow alternative mechnical integrity tests indirect implementation programs if the Administrator approves the alternative. Typically, Class II primacy States agreed to obtain EPA approval of any alternative mechnical integrity test they wished to use as a condition of primacy.

The Environmental Protection Agency intends to grant interim approval for period of two years from November 30, 1987, for the use of an alternative mechnical integrity test know as the dual-completion monitoring test. Several oil and gas operators in various states requested that EPA approve this test as a alternate mechnical integrity test. This test may be applied to dual-completion Class II wells used for both production and injection in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma. The information gathered during the two-year interim period will be used to verify the effectiveness of the alternative. Dual-completion wells require regular workovers and a pressure test of the casing is usually performed at that time. Under the procedured approved in this notice, a pressure test must be performed after each workover. Any necessary changes in the test precedures will be indentified during the interim period.

II. Description of the Test

Some operators in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma, use Class II wells in which water is injected through an injection tubing into perforations below a packer while oil is produced into the annual space above the packer. This type of construction does not lend itself to the normal methods for proving mechanical integrity or to annulus pressure monitoring under the provisions of 40 CFR 146.8(b). Surface pressure cannot be applied to the annular space because fluids would be

forced out into the producing reservoir via the open perforations. Consequently, EPA reviewed dual-completion operations in several States and found that operators check the level of the fluid in the well annulus regularly to determine if any water is leaking into the well bore from a leaky packer, injection tubing or casing. This monitoring is also used to ensure that fluid levels are below any overlying USDW's. A leak from the tubing, casing or packer would cause an increase in the annulus fluid level. In addition, the Agency noted that operators will also monitor the volume of oil and water produced from the producing zone to detect any change in oil production rates. Production records normally provide sufficient data by measuring the fluid level in the annulus and indicating the proportion of oil and water produced. Based on these field practices, EPA has established a monitoring test that indicates whether the well has mechnical integrity and whether it is protective of underground sources of drinking water.

The test utilizes monthly monitoring of the oil/water cut ratio and producing fluid levels. The fluid levels in the annulus are taken: (1) Prior to shut-in of injection; (2) one hour after shut-in of injection; and (3) 15 minutes after injection is restarted. The production from these wells is not shut-in during the measurements. The fluid level measurements with and without injection allow a determination concerning leaks by clearly establishing a pressure differential between the production zone and the injection zone. The test works because a leak in either the tubing, casing, or packer will cause the annulus fluid level to rise, and ratio of oil and water produced to change. Thus, observation of these parameters will fall into one of three categories:

(1) If there is no significant change in the produced oil/water ratio, and no significant change in the annulus fluid level, mechanical integrity of the well is indicated;

(2) If a significant change in the produced oil/water ratio occurs with no significant change in the annulus fluid level, or a significant change in the annulus fluid level occurs with no significant change in the produced oil/water ratio, the test result is inconclusive and another approved mechanical integrity test is necessary unless the changes can be traced to downhole pump problems; and

(3) If fluid levels in the annulus change 100 feet or more between the static condition (injection shut-in) and the dynamic condition (injection occurring), then a failure of mechanical integrity is indicated and the operator must immediately notify the Director and initiate corrective action.

During the two-year interim approval period, a protocol will be developed to compare the results of this test with approved mechanical integrity tests. The Agency intends this protocol to verify the testing procedure, to determine if the criteria for failure should be changed, and to compare the relationship between fluid level and oil/water ratio changes to the magnitude of leaks found in approved mechanical integrity tests. The end result of this will be either to approve the test with specific parameters for changes in these relationships, revise it, or discontinue its use.

III. Basis for Determination

All technical documentation supporting the dual-completion monitoring test will be available for public review at EPA Offices previously mentioned. EPA developed the monitoring test for demonstrating mechanical integrity of dual-completion injection wells after considering the following construction and operational practices and geologic constraints of the geographic areas in question:

(1) The dual-completion wells affected by this notice produce oil and gas through either the annular space or a second tubing string and inject brines through tubing which is completed into a formation underlying the oil and gas producing zone. The production string is separated from the injection string by a packer. Above this packer, the outer casing is perforated to allow oil and gas production; below the packer, there is a second perforation in the outermost casing and a second packer is set below it. Brine is injected into the formation opposite the second perforation;

(2) These dual-completion wells cannot be tested by pressuring up the casing/tubing annulus because of the presence of open perforations above the packer. Pressure testing of the casing above the perforations cannot be done without removal of the entire injection and production tubing, packer, and pump assembly. Such a pressure test will provide mechanical integrity data only on the portion of the casing above the top perforations. Also, a pressure test of the casing does not address the integrity of the packer when reinstalled;

(3) The fields commonly have more than one producing horizon;

(4) The injection zone is either below all USDWs or into zones which have been exempted pursuant to § 146.04;

(5) Oil is produced on a regular basis. Many wells are equipped with an electronic sensor which turns the pump on when the annulus fluid levels reach a preset point and turns off when the level falls to a given position; and

(6) A leak in the injection tubing or packer normally will cause the produced fluids to show a dramatic increase in water production. In some cases, the increase in water can be such that the oil zone will stop flowing into the well.

IV. Special Conditions

A. Procedures for Conducting the Dual-Completion Monitoring Mechanical Integrity Test

The procedure for the Dual-Completion Monitoring Test consists of the following:

(1) Measure the dynamic fluid level (injection and production are occurring) of the casing/tubing annulus at least monthly, or more frequently as specified by the Director, to ensure that the fluid level in the production zone is at least 100 feet below the base of the USDW overlying the uppermost packer;

(2) Shut-in injection for one hour and bleed off excess surface pressure;

(3) Measure annulus fluid level;

(4) Restart injection and measure the fluid level after 15 minutes;

(5) Accurately take a representative sample to determine the proportion of oil and water in the produced fluid at least monthly or more frequently if specified by the Director;

(6) Notify the Director of any change in the production annulus fluid level between the static and dynamic measurements of more than 100 feet and begin to correct the problem; and

(7) Notify the Director of any significant changes in either the oil/water cut or the dynamic fluid level and then run an approved alternate mechanical integrity test unless it can be determined that the changes are a result of downhole pump problems.

B. Limitations and Conditions of the Test

During the interim approval period, EPA is requesting affected State UIC Directors to make certain determinations and supply necessary information for effective evaluation of this test. The following limitations and conditions would be placed on the approval and use of the dual-completion monitoring test:

(1) The operator shall initiate corrective action and run a pressure test and/or radioactive tracer survey, as specified by the Director, on dual-completion wells if:

(a) The fluid level in the production zone remains less than 100 feet from the

base of the USDW or as specified by the Director;

(b) The change in annulus fluid level between static (injection shut-in while production is occurring) and dynamic (injection and production occurring) condition is more than 100 feet during the indicated test period;

(c) The oil/water cut ratio varies such that it deviates from the normal trend of oil and water production curves in the field, or the Director determines that the history of the oil/water cut ratio warrants further tests of the well; or

(d) During the interim period, the Director determines that the results of the test remain inconclusive.

(2) All new injection wells (newly drilled or converted) must have a casing pressure test prior to commencing injection before the perforation of the injection and production zones;

(3) All wells undergoing workovers to stimulate production or correct mechanical problems must have a pressure test run on the casing after completion of the workover;

(4) Surface casing and production casing must have cement protecting USDWs;

(5) This alternative is approved only for Class II injection wells where the production fluids in the annulus are above the injection zone, and only while the well is in production, and only in the States of Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma; and

(6) The Director will submit a report to the Office of Drinking Water or to the Region detailing the results obtained during the interim period for the dual-completion monitoring test. This report will be due 21 months from the interim approval date and will cover the initial 18 months of the interim approval period and must include at least the following data on a statistically valid sample of the dual-completion wells included in this alternative:

(a) Fluid level data;

(b) Oil and water-cut ratio and variations in the ratio;

(c) Well construction data;

(d) Information on the local USDWs (depth, TDS, etc.);

(e) Details on the nature of failures;

(f) Monitoring data on injection pressures and volumes;

(g) Results of tests run during workovers;

(h) Details on the timing and methods used to collect data on fluid levels, oil/water cut, injection pressures, etc.;

(i) Results of dual-completion monitoring tests; and

(j) Recommendations for establishing criteria for failure.

C. Determination

The dual-completion monitoring test, subject to the conditions and procedures discussed in this notice, provides the necessary information that indicate if a well does not have any significant leaks in its tubular goods. This test causes minimal loss of oil production and is consistent with standard production and injection practices for these areas.

EPA is approving this test for those States in which dual-completion wells are located. After the two-year interim approval period, EPA will make a final determination on whether this test is an effective alternative mechanical integrity test for Class II dual-completion wells in Montana, Wyoming, Kansas, Nebraska, Michigan, and the Osage Mineral Reserve, Osage County, Oklahoma.

Date: October 19, 1987.

Michael B. Cook,

Director, Office of Drinking Water.

[FR Doc. 87-25038 Filed 10-28-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 799

[OPTS-42070A; FRL-3284-5]

Benzyl Butyl Phthalate; Withdrawal of Proposed Environmental Fate and Effects Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Withdrawal.

SUMMARY: EPA is withdrawing its proposal to require certain environmental fate and effects testing for benzyl butyl phthalate (BBP; CAS No. 85-68-7). EPA proposed acute and chronic toxicity tests in freshwater and saltwater organisms, an oyster bioconcentration test, and a test to determine the fate of BBP in undisturbed sediment. Because these tests have been satisfactorily completed by industry, they do not need to be obtained through a test rule.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202) 554-1404.

SUPPLEMENTARY INFORMATION: EPA is withdrawing its proposed rule requiring environmental fate and effects testing of benzyl butyl phthalate.

I. Background

The Interagency Testing Committee (ITC), in its Seventh Report, designated benzyl butyl phthalate for priority consideration of environmental and health effects testing under section 4 of the Toxic Substances Control Act (TSCA). In response to that designation, EPA and the Chemical Manufacturers Association (CMA) developed a negotiated testing program for BBP for certain environmental fate and effects testing. Health effects testing of BBP, as noted in the Agency's previous response to the ITC and published in the **Federal Register** of October 30, 1981 (46 FR 53775), is being addressed adequately by testing conducted by the National Toxicology Program. In August 1984, a suit brought against EPA resulted in the ruling that such negotiated testing programs were not a legal substitute for a test rule under section 4. As a result, EPA issued a proposed rule to obtain all environmental fate and effects testing necessary for the full characterization of BBP.

Based upon its review of the available data, including those developed under the negotiated testing program, EPA concluded that additional environmental fate and effects testing of BBP was warranted under section 4(a)(1)(A). In the **Federal Register** of September 6, 1985 (50 FR 36446), EPA issued a proposed rule to obtain additional environmental fate and effects testing of BBP. (For a summary of environmental effects tests performed prior to this withdrawal notice, see the preamble to the proposed rule.)

In the proposed rule, EPA found that environmental fate and effects testing was warranted under section 4 of TSCA. This testing was intended to enable the Agency to make a determination whether BBP presents an unreasonable risk of injury to the environment and to establish water quality criteria for protecting aquatic life under section 304(a)(1) of the Clean Water Act. The proposed tests were acute and chronic toxicity tests with marine and freshwater organisms, an oyster bioconcentration test, and a test to determine the fate of BBP in undisturbed sediment. All of this proposed testing has been completed and submitted to EPA by Monsanto Company. The following table summarizes the results of these studies.

Summary of Environmental Fate and Effects Data for BBP

Organism	Endpoint	Effect level (mg/L)	Ref. No.
Rainbow trout (*Salmo gairdneri*)	Early life stage MATC	0.095–0.20	1
Hydra (*Hydra littoralis*)	96-hr EC50	1.1	2
Mayfly (*Hexagenia sp.*)	96-hr LC50	1.1	3
Crayfish (*Procambarus sp.*)	96-hr LC50	[1] >2.4	4
Polychaete (*Nereis/Neanthes virens*)	96-hr LC50	[1] >3.0	5
Grass shrimp (*Paleomonetes vulgaris*)	96-hr LC50	[1] >2.7	6
Pink shrimp (*Panaeus duorarum*)	96-hr LC50	[1] >3.4	4 7
Mysid shrimp (*Mysidopsis bahia*)	96-hr LC50	[2] >0.74	8
Mysid shrimp (*Mysidopsis bahia*)	Chronic MATC	0.075–0.17	9
Oyster (*Crassostrea virginica*)	96-hr EC50	1.3	10
Oyster (*Crassostrea virginica*)	Bioconcentration factor	135	11
Fate in water/(sediment)	Degradation half life	>1.0 <2.Od/ (<10 d)	12, 13

[1] No mortalities at this limit of solubility.
[2] 35 percent mortality at this test concentration.

EPA has evaluated the completed studies and has also audited selected studies for adherence to TSCA Good Laboratory Practice Standards in 40 CFR Part 792. EPA considers these studies sufficient to meet the Agency's environmental fate and effects testing needs for BBP at this time. Therefore, the Agency is issuing this notice to withdraw the rule for BBP proposed in the **Federal Register** of September 6, 1985 (50 FR 35446) because sufficient data are now available to characterize the environmental effects of BBP.

II. Rulemaking Record

A public record, containing the basic information considered by the Agency in developing its decisions on BBP, is available for inspection in the OPTS Reading Room NE–G004, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays (docket number OPTS–42070A). Confidential Business Information (CBI), while part of the rulemaking record, is not available for public review.

The rulemaking record includes the following information

A. Supporting Documentation

(1) The **Federal Register** notice containing the ITC designation of BBP to the Priority List (45 FR 78432; November 25, 1980).

(2) The **Federal Register** notice proposing that EPA require certain environmental fate and effects for BBP (50 FR 36446; September 6, 1985).

(3) Communications consisting of letters, contact reports of telephone conversations, and meeting summaries.

B. References

(1) Analytical Bio-Chemistry Laboratories, Inc. "Early life stage toxicity of ^{14}C-butylbenzyl phthalate to rainbow trout (*Salmo gairdneri*) in a flow-through system." Report No. 33996 submitted to Monsanto Co., St. Louis, MO. (September 25, 1986).

(2) Analytical Bio-Chemistry Laboratories, Inc. "96-hour flow-through toxicity study of butylbenzyl phthalate to *Hydra littoralis*." Report No. 34168 submitted to Monsanto Co., St. Louis, MO. (April 29, 1986).

(3) Analytical Bio-Chemistry Laboratories, Inc. "96-hour flow-through toxicity study of butylbenzyl phthalate to the mayfly, *Hexagenia sp.*" Report No. 34167 submitted to Monsanto Co., St. Louis, MO. (September 24, 1986).

(4) Analytical Bio-Chemistry Laboratories, Inc. "96-hour flow-through toxicity study of butylbenzyl phthalate to the freshwater crayfish, *Procambarus sp.*" Report No. 34166 submitted to Monsanto Co., St. Louis, MO. (July 14, 1986).

(5) Springborn Bionomics, Inc. "Acute toxicity of butylbenzyl phthalate to polychaetes (*Nereis/Neanthes virens*) under flow-through conditions." Report No. BW–86–7–2094 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(6) Springborn Bionomics, Inc. "Acute toxicity of butylbenzyl phthalate to grass shrimp (*Paleomonetes vulgaris*) under flow-through conditions." Report No. BW–86–7–2087 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(7) Springborn Bionomics, Inc. "Acute toxicity of butylbenzyl phthalate to pink shrimp (*Penaeus duorarum*) under flow-through conditions." Report No. BW–86–7–2093 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(8) Monsanto Co. Letter from William J. Adams to John Schaeffer. (October 8, 1987).

(9) Springborn Bionomics, Inc. "Chronic toxicity of butylbenzyl phthalate to mysid shrimp (*Mysidopsis bahia*)." Report No. BW–86–7–2074 submitted to Monsanto Co., St. Louis, MO. (July, 1986).

(10) Springborn Bionomics, Inc. "Acute toxicity of ^{14}C-butylbenzyl phthalate to eastern oysters (*Crassostrea virginica*)." Report No. BW–86–7–2083 submitted to Monsanto Co., St. Louis, MO. (August, 1986).

(11) Springborn Bionomics, Inc. "Uptake and elimination of ^{14}C-residue by eastern oysters (*Crassostrea virginica*) exposed to butylbenzyl phthalate (BBP)." Report No. BW–86–2114 submitted to Monsanto Co., St. Louis, MO. (August, 1986).

(12) Adams, W.J., W.J. Renaudette, J.D. Doi, M.G. Strepo and M.W. Tucker. "Experimental freshwater microcosm biodegradability study of butyl benzyl phthalate." Report No. MSL–6045, ESC–EAG–86–01. (September 17, 1986).

(13) Monsanto Co. Letter from William J. Adams to John Schaeffer. (April 28, 1987).

Therefore, 40 CFR 799.850 *Benzyl butyl phthalate*, proposed at page 36446 in the **Federal Register** of September 6, 1985 (50 FR 36446), is hereby withdrawn.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: October 22, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 87–25034 Filed 10–28–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 5

Criteria for Designation of Health Manpower Shortage Areas

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to the existing regulations governing the criteria for Designation of Health Manpower Shortage Areas required by section 332 of the Public Health Service Act (the Act). This amendment would revise the definition for the term "internees" used in the criteria for designating those Federal

and State institutions which have a shortage of primary medical care, dental care, or psychiatric manpower.

DATE: Comments must be received no later than December 28, 1987.

ADDRESS: Written comments may be addressed to Mr. Thomas D. Hatch, Director, Bureau of Health Professions, Health Resources and Services Administration, Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Richard C. Lee, Chief, Distribution and Shortage Analysis Branch, Office of Data Analysis and Management, Bureau of Health Professions, Parklawn Building, Room 8–57, 5600 Fishers Lane, Rockville, Maryland 20857; telephone 301 443–6932.

SUPPLEMENTARY INFORMATION: Section 332 of the Public Health Service Act, as amended by Pub. L. 94–484, the Health Professions Educational Assistance Act of 1976, required the Secretary to establish, by regulation, criteria for the designation of health manpower shortage areas (HMSAs). The final regulations setting forth these criteria are codified at 42 CFR Part 5.

The HMSA criteria for designating facilities include criteria for designating medium to maximum security Federal and State correctional institutions and youth detention facilities that have a shortage of primary medical care, dental, and/or psychiatric manpower. These criteria use population-to-practitioner ratios as a major variable in determining whether a health manpower shortage exists, and specifically use the number of internees per year as the controlling population figure in computing the ratios for these institutions.

In the relevant sections of the HMSA facility criteria, internees were defined as the number of inmates present at the beginning of the year plus the number of new inmates entering the facility during the year. The inclusion in this formula of the number of new entrants was to account for the "intake effect", which involves several assumptions—that intake health examinations are required at the typical correctional facility, that these examinations are likely to result in significant follow-up treatment, and that intake examinations and follow-up care would result in health care personnel requirements over and above those for maintenance care of inmates already there. This approach works well for facilities with a long length-of-stay and a small number of new inmates entering each year. However, for those correctional facilities with a high turnover, i.e. a small number of inmates but a large number of new inmates per year and a short length of stay, this approach appears to yield a requirement for a larger number of health practitioners than are really needed, particularly in the case of primary care.

Furthermore, studies indicate that many correctional facilities use health professionals who are *not* primary care physicians, dentists or psychiatrists to perform a large number or large portion of the intake examinations. Thus, the computed requirement for physicians and dentists is further distorted to the extent that portions of the intake examinations are actually being performed by health professionals other than physicians and dentists.

Correctional facilities that meet or exceed the established minimum population-to-practitioner ratios may receive HMSA designation; these same facilities are "dedesignated" once the ratio falls below the minimum. The "dedesignation threshold" is defined as the number of physicians or dentists needed to remove the facility from designation, and is computed as the internee population divided by the designation threshold criterion minus the number of non-Federal physicians or dentists at the institution. Because of the way internees have been counted, those facilities with a very high number of new inmates per year in proportion to the average number of inmates have excessively high "dedesignation thresholds".

In order to provide a more realistic and accurate way of calculating the effective population for purposes of correctional facility HMSA designation and the number of practitioners needed to serve designated facilities, the Department proposes to adopt the following revised method for defining "internees" in the correctional facility HMSA criteria (Parts IIIA of Appendices A, B, and C of 42 CFR Part 5):

1. If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake examinations are routinely performed upon entry, then—

Number of internees = $k \times [a \times$ (average number of inmates)]

Here 'a' represents the average number of visits per inmate per year; the factor 'k' is a normalization factor relating the number of visits that can be provided by a single practitioner to the internee-to-practitioner ratio previously established in the correctional facility criteria.

2. If the average length-of-stay is specified as one year or more, and intake examinations are routinely performed upon entry, then—

Number of internees = $k \times [a \times$ (average number of inmates) + $(b+c) \times$ (number of new inmates per year)]

Here 'b' represents the fraction of new inmates that receive intake exams times the number of inmate visits that one intake exam would be equivalent to; 'c' represents the number of follow-up visits per new inmate per year generated by the intake exams.

3. If the average length-of-stay is specified as less than one year, and intake examinations are routinely performed upon entry, then—

Number of internees = $k \times [(a \times ALOS) \times$ (average number of inmates) + $(b + c \times ALOS) \times$ (number of new inmates per year)]

Here ALOS = average length-of-stay (in fraction of year), and is included as a factor because the rest of the formula is constructed based on an inmate's needs over one complete year.

For primary care physicians, the factors $a=5$, $b=1$, $c=\frac{1}{2}$ and $k=\frac{1}{5}$ have been chosen. These assume that the average inmate sees the physician approximately five times per year for consultation on physical illness (although the inmate may visit the dispensary more often than that, the assumption is that only five of these visits require consultation with the physician); that each new inmate receives an intake medical exam, and that the physician's portion of the intake exam entails approximately the same amount of time as a typical inmate visit; that one follow-up visit occurs for every two new inmates; and that a physician can handle 100 inmate visits or intake exams per week.

For dentists, the factors $a=1$, $b=1$, $c=2$, and $k=\frac{1}{2}$ have been chosen. These assume that the average inmate would visit the dentist once a year; that each new inmate receives an intake dental exam, and that the intake dental exam entails approximately the same amount of dentist time as a typical dental visit; that two follow-up visits occur for each new inmate; and that a dentist can handle 30 inmate visits or intake exams per week.

For psychiatrists, the factors $a=1$, $b=1$, $c=2$, and $k=2$ have been chosen. These assume that the average inmate would visit the psychiatrist once per year; that each new inmate receives an intake psychiatric exam, and that the intake psychiatric exam entails

approximately the same amount of time as a typical psychiatric visit; that 20 percent of the new inmates require followup visits amounting to 10 visits over their first year; and that a psychiatrist can handle 20 inmate visits or intake exams per week.

Regulatory Flexibility Act and Executive Order 12291

The Secretary certifies that this amendment to the regulations does not have a significant economic impact on a substantial number of small entities because it primarily affects the way Federal and State correctional institution populations are counted in order to more accurately calculate the need for health care practitioners under the existing HMSA designation process. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required. Further, this rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined that the rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

There are no information collection requirements in this regulation.

List of Subjects in 42 CFR Part 5

Dental health, Health, Health professions, Mental health, Physicians, Public health, Rural areas.

Accordingly, 42 CFR Part 5 is proposed to be amended as set forth below:

Dated: May 8, 1987.

Lowell T. Harmison,

Assistant Secretary for Health.

Approved: June 11, 1987.

Otis R. Bowen,

Secretary.

PART 5—DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

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

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); sec. 332 of the Public Health Service Act, 90 Stat. 2770–2772 (42 U.S.C. 254e).

Appendix A—[Amended]

2. Appendix A, Part III—Facilities paragraph A.1.(b) is amended by removing the parenthetical statement and inserting the following:

* * * * *

(b) * * * Here the number of internees is defined as follows:

(1) If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake medical examinations are routinely performed upon entry, then—

Number of internees = average number of inmates

(2) If the average length-of-stay is specified as one year or more, and intake medical examinations are routinely performed upon entry, then—

Number of internees = average number of inmates + (0.3) × (number of new inmates per year)

(3) If the average length-of-stay is specified as less than one year, and intake examinations are routinely performed upon entry, then—

Number of internees = ALOS × (average number of inmates) + (0.2) × (1 + ALOS/2) × (number of new inmates per year) where ALOS = average length-of-stay (in fraction of year)

(The number of FTE primary care physicians is computed as in Part I, Section B, paragraph 3 above.)

* * * * *

Appendix B—[Amended]

3. Appendix B, Part III—Facilities paragraph A.1.(b) is amended by removing the parenthetical statement and inserting the following:

* * * * *

(b) * * * Here the number of internees is defined as follows:

(1) If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake dental examinations are routinely performed by dentists upon entry, then—

Number of internees = ½ × (average number of inmates)

(2) If the average length-of-stay is specified as one year or more, and intake dental examinations are routinely performed upon entry, then—

Number of internees = ½ × (average number of inmates) + ⅜ × (number of new inmates per year)

(3) If the average length-of-stay is specified as less than one year, and intake dental examinations are routinely performed upon entry, then—

Number of internees = ½ × ALOS × (average number of inmates) + ½ × [1 + (2 × ALOS)] × (number of new inmates per year) where ALOS = average length-of-stay (in fraction of year)

(The number of FTE dentists is computed as in Part I, Section B, paragraph 3 above.)

* * * * *

Appendix C—[Amended]

4. Appendix C, Part III—Facilities paragraph A.1.(b) is amended by removing the parenthetical statement and inserting the following:

* * * * *

(b) * * * Here the number of internees is defined as follows:

(1) If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake psychiatric examinations are routinely performed upon entry, then—

Number of internees = 2 × (average number of inmates)

(2) If the average length-of-stay is specified as one year or more, and intake psychiatric examinations are routinely performed upon entry, then—

Number of internees = 2 × (average number of inmates) + 6 × (number of new inmates per year)

(3) If the average length-of-stay is specified as less than one year, and intake psychiatric examinations are routinely performed upon entry, then—

Number of internees = 2 × ALOS × (average number of inmates) + 2 × [1 + (2 × ALOS)] × (number of new inmates per year) where ALOS = average length-of-stay (in fraction of year)

(The number of FTE psychiatrists is computed as in Part I, Section B, paragraph 3 above.)

* * * * *

[FR Doc. 87-25065 Filed 10-28-87; 8:45 am]

BILLING CODE 4160-15-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-111; RM-4857 and RM-5118]

Television Broadcasting Services; Pearl City, Wailuku, and Kaunakakai, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of petition.

SUMMARY: This document denies a petition for rule making filed by Larry G. Fuss, Sr. proposing the allotment of VHF television Channel 7 to Pearl City, Hawaii. This allotment would have

necessitated the substitution of VHF Channel 8 in lieu of Channel 7 at Wailuku, Hawaii and the resulting modification of license of Station KAII-TV. This document also dismisses two counterproposals by Mauna Kea Broadcasting for the allotment of either Channel *7 or *8 to Kailua-Kona, Hawaii and Channel 7 to Kaunakakai, Molokai. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85–111, adopted September 28, 1987, and released October 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.

List of Subjects in 47 CFR Part 73

Television broadcasting.

(**Authority**: 47 U.S.C. 154, 303)

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–24860 Filed 10–28–87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 209
Thursday, October 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

Forest Service

Proposed Rock Creek/Muddy Creek Reservoir Site, Routt National Forest, Routt and Grand Counties, CO; Extension of Public Comment Period; Draft Environmental Impact Statement

The public comment period for the Rock Creek/Muddy Creek Reservoir Draft Environmental Impact Statement has been extended until November 9, 1987. The Notice of Availability appeared in the **Federal Register**, Volume 52, Number 175, on Friday September 4, 1987 on page 33636.

Written comments should be sent to Jerry E. Schmidt, Forest Supervisor, Routt National Forest, 29587 West U.S. 40, Suite 20, Steamboat Springs, Colorado.

Jerry E. Schmidt,

Forest Supervisor, Routt N.F.

Date: October 23, 1987.

[FR Doc. 87-25100 Filed 10-28-87; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

French Creek Critical Area Treatment, South Dakota

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

Notice: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CRF Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the French Creek Critical Area Treatment, Custer County, South Dakota.

FOR FURTHER INFORMATION CONTACT: C. Budd Fountain, State Conservationist, Soil Conservation Service, Federal Building, 200 Fourth Street SW., Huron, South Dakota 57350, telephone (605) 353-1783.

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

The planned works of improvement include stabilizing eroding streambanks on French Creek by shaping, riprapping, seeding, mulching, fertilizing, and fencing.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting C. Budd Fountain. A combined environmental assessment and FONSI has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

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

Dated: October 4, 1987.

C. Budd Fountain,

State Conservationist.

[FR Doc. 87-25013 Filed 10-28-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Technical Information Service
Title: Japanese Technical Literature Activities in the United States
Form Number: Agency—NA; OMB—NA
Type of Request: New collection
Burden: 1,000 respondents; 500 reporting hours
Needs and uses: This collection will permit NTIS to provide an accurate report to Congress on Japanese technical literature activities in the United States. It will also be used to promote public use of Japanese information and to enhance U.S. competitiveness.
Affected Public: State or local governments, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, and small businesses or organizations
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox 395-3785

Copies of the above information collection proposal can be obtianed by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235 New Executive Office Building, Washington, DC 20503.

Dated: October 23, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-25044 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1988 Dress Rehearsal Census—Update/Leave
Form Number: Agency—DX-105A, DX-105B, DX-105C; OMB—NA
Type of Request: New collection

Burden: 59,000 respondents; 1,475 reporting hours
Needs and Uses: The update/leave approach uses a combination of self-enumeration mail-back census taking, and a dependent canvass for coverage improvement using a precensus address list. This approach is being tested for use in rural areas where U.S. Postal Service address lists are shown to be unreliable.
Affected Public: Individual or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult 395–7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: October 26, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–25066 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Order No. 365]

Approval for Expansion of Foreign-Trade Zone No. 49, Newark/Elizabeth, New Jersey Area, Within the New York Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Port Authority of New York and New Jersey, Grantee of Foreign-Trade Zone No. 49 has applied to the Board for authority to expand its general-purpose zone to include a new site at the Global Terminal and Container Services, Inc., facility on upper New York Bay in Jersey City/Bayonne, New Jersey, within the New York Customs port of entry;

Whereas, the application was accepted for filing on September 23, 1985, and notice inviting public comment was given in the **Federal Register** on October 7, 1985 (Docket 33–85, 50 FR 40884);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the New Jersey sector of the Upper New York Bay area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now Therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the applications filed September 23, 1985. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the Commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 23rd day of October 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary of Commerce for Import Administration Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc 87–25070 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 23–87]

Foreign-Trade Zone 141, Monroe County, NY: Rochester Customs Port of Entry; Application for Subzone; Kodak Manufacturing Facilities

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, State of New York, grantee of FTZ 141, requesting special-purpose subzone status for the manufacturing and distribution facilities (10 sites) of the Eastman Kodak Company (Kodak) in the Rochester area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 19, 1987.

Kodak is a major multi-national manufacturer of film, imaging and information management equipment, chemicals and life science products. Its sales in 1986 amounted to $12 billion, 35 percent of which were overseas. The company has manufacturing facilities in eight states and in eight countries, and it sells its products in 150 countries. Its headquarters and largest manufacturing facilities are in the Rochester area.

Kodak's Rochester facilities involved in this application cover 10 sites (3,200 acres) in the Counties of Monroe, Ontario, and Wayne, where some 43,000 persons are employed. Site 1, Kodak Park (2,134 acres), is the company's main manufacturing and distribution center. It is located along I–390 and Ridgeway Avenue, in the communities of Rochester, Greece, and Gates, New York. The other sites are: Site 2, Kodak Park Irondequoit (17 acres), 2200 North Goodman Street, Irondequoit; Site 3, Kodak Park G (20 acres), 460 Buffalo Road, Rochester; Site 4, Elmgrove Plant (750 acres), Elmgrove Road, Gates; Site 5, Hawk-eye Plant (14 acres), Paul Street/Avenue E, Rochester; Site 6, C Building (9 acres), Carlson Road, Rochester; Site 7, Sayette Technology Division (12,000 square feet), 1133 Mount Read Boulevard, Rochester; Site 8, Beta Physics Division (12 acres), Routes 5 and 20, East Bloomfield; Site 9, Videk Division (13 acres), Route 332 and Collett Road, Farmington; and, Site 10, Ultra Technologies Division (217 acres), Highway 88/Silverhill Road, Newark.

The facilities produce and distribute over 30,000 products in the five product categories listed below. Within each category, the company sources numerous components abroad, some from its own plants. List under each category are examples of the items that are or could be sourced abroad.

1. *Photographic Film, Paper and Chemicals* (duty rates 0–8.5 percent). Materials include gelatin, silver bullion, pulp, paper, acenaphthene, alkylbenzenes, 4-chlororesoranol, thio salicylic acid, hydrobromic acid, lithium compounds, and selium (duty rates 0–17.3 percent).

2. *Photographic/Video Cameras, Equipment and Supplies* (duty rates 2.0–9.0 percent). Components include parts, lenses, fans, electrical equipment, and photographic/video equipment parts (duty rates 3.7–7.0 percent).

3. *Copiers, Office Machines, and Computer Equipment* (duty rates 3.7–3.9 percent). Components include wiring harnesses, transformers, switches, regulators, displays, keyboards, disk drives, printers, lenses, circuit boards, motors, and other electrical parts (duty rates 2.4–7.0 percent).

4. *Medical Instruments and Equipment* (duty rates 2.1–10.0 percent).

Components include lenses, circuit boards, electrical components, and medical equipment parts (duty rates 2.1–10.0 percent).

5. *Life Science Chemicals* (duty rates 0–16 percent). Materials include enzymes, vitamins, amino acids, flavors and components thereof (duty rates 0–16 percent).

Zone procedures would allow Kodak to avoid Customs duty payments on foreign materials used in its exports. On its domestic sales, the company would be able to defer duty payments and, in some cases, to take advantage of the same duty rate available to importers of finished merchandise. The application indicates that the savings will help improve the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Daniel R. Clark, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagra Street, Buffalo, New York 14207.

Comments concerning the proposed foreign-trade subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 11, 1987.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Rochester Branch, 121 East Avenue, Rochester, New York 14604

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: October 22, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–25069 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A–588–401]

Calcium Hypochlorite From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 14, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on calcium hypochlorite from Japan. The review covers three manufacturers and/or exporters of this merchandise to the United States and the period October 9, 1984 through March 31, 1986.

We gave interested parties an opportunity to comment on the preliminary results, and we received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 30415) the preliminary results of its administrative review of the antidumping duty order on calcium hypochlorite from Japan (50 FR 15470, April 18, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of calcium hypochlorite, currently classifiable under item 418.2200 of the Tariff Schedules of the United States Annotated. This product is currently classifiable under HS item number 2828.10.00.00.

The review covers three manufacturers and/or exporters of Japanese calcium hypochlorite to the United States and the period October 9, 1984 through March 31, 1986.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results, and we received no comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review, and we determine that the following weighted-average margins exist during the period October 9, 1984 through March 31, 1986:

Manufacturer/Exporter	Margin (percent)
Nissin Denka Co., Ltd	0.27
Nippon Soda Co., Ltd	0
Nankai Chemical Industry Co., Ltd	0

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. We will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, since the only margin is less than 0.50 percent and therefore *de minimis* for cash deposit purposes, no cash deposit shall be required for the firms. For any future shipments from the remaining manufacturers and/or exporters not covered in this review, a cash deposit shall be required at the rate published in the antidumping duty order for all other firms. For any future entries of this merchandise from a new exporter, whose first shipments occurred after March 31, 1986 and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese calcium hypochlorite entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Acting Assistant Secretary, Import Administration.

Date: October 24, 1987.

[FR Doc. 87–25077 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-047]

Elemental Sulphur From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 9, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on elemental sulphur from Canada. The review covers ten producers and/or exporters of this merchandise to the United States and the periods January 1, 1979 through November 30, 1981 and December 1, 1983 through November 30, 1984.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke in part. Based on our analysis of the comment received, the final results are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 23325) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on elemental sulphur from Canada (38 FR 35655, December 17, 1973). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of elemental sulphur currently classifiable under item number 415.4500 of the Tariff Schedules of the United States Annotated and Harmonized System numbers 2503.10.00, 2503.90.00, and 2802.00.00.

The review covers ten producers and/or exporters of Canadian elemental sulphur to the United States and the periods January 1, 1979 through November 30, 1981 and December 1, 1983 through November 30, 1984.

Analysis of Comment Received

We invited interested parties to comment on the preliminary results and tentative determination to revoke in part. We received a comment from one respondent.

Comment: Texaco Canada Inc. ("Texaco") contends that, before the final determination to revoke in part is published, the Department should complete its review of Texaco's home market and U.S. sales for the "gap period" (December 1, 1986 through July 9, 1987). The Department is currently reviewing Texaco's questionnaire response for the period December 1, 1985 through November 30, 1986. If the Department immediately commenced a review of the gap period, the results of that review could be published simultaneously with the results of the 1985-1986 review.

Department's Position: If, in the anniversary month of the finding (December 1987), we receive a timely request from Texaco for a section 751 review of the gap period, we will initiate that review in January 1988.

Final Results of the Review

Based on our analysis of the comment received, the final results have not changed from those presented in the preliminary results of review, and we determine that the following margins exist:

Manufacturer/ Exporter	Period of review	Margin (percent)
BP Resources Canada	12/01/83-11/30/84	[1] 5.56
Cities Service Oil and Gas	12/01/83-11/30/84	[1] 0
Drummond Oil & Gas	12/01/83-11/30/84	0
Imperial Oil	12/01/83-11/30/84	0
Koch Industries	12/01/83-11/30/84	[1] 26.95
Mobil Oil Canada	01/01/79-11/30/81	0
Real International	12/01/83-11/30/84	0
Suncor	12/01/83-11/30/84	[1] 26.95
Union Texas (Allied)	12/01/83-11/30/84	[1] 28.90
Texaco Canada Inc. (formerly Texaco Canada Ltd.)	12/01/83-11/30/84	0

[1] No shipments during the period.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based upon the above margins shall be required for these firms.

For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative reviews for each of those firms (50 FR 37889, September 18, 1985, 51 FR 43954, December 5, 1986, and 51 FR 45153, December 17, 1986). For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments of Canadian elemental sulphur occurred after November 30, 1984 and who is unrelated to any reviewed firm or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian elemental sulphur entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Date: October 24, 1987.

[FR Doc. 87-25075 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-066]

Impression Fabric of Man-Made Fiber From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 9, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on impression fabric of man-made fiber from Japan. The review covers three exporters of this merchandise to the United States and the period May 1, 1982 through April 30, 1986.

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke in part. At the request of the petitioners, a hearing was held on March 5, 1987. Based on our analysis of the comments received, the final results of review are unchanged from those presented in the preliminary results. However, we have determined not to revoke the antidumping finding in part, because we are not satisfied that there is no likelihood of resumption of sales at less than fair value.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 826) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on impression fabric of man-made fiber from Japan (43 FR 22344, May 28, 1978). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of impression fabric of man-made fiber, currently classifiable under items 338.5001, 338.5002, and 347.6030 of the Tariff Schedules of the United States Annotated and Harmonized System numbers 5407.41.00 and 5806.32.10.

The review covers three exporters of Japanese impression fabric of man-made fiber to the United States and the period May 1, 1982, through April 30, 1986.

Analysis of Comments Received

We gave interested parties the opportunity to comment on the preliminary results. At the request of the petitioners, Bomont Industries and Burlington Industries, Inc., we held a public hearing on March 5, 1987.

Comment 1: The petitioners contend that any resumption of shipments by Nissei Co., Ltd. ("Nissei") and Mitsui & Co., Ltd. ("Mitsui") of impression fabric of man-made fiber to the United States would almost certainly require dumping. The existing home market prices and the price structure of the U.S. market compel the conclusion that Nissei and Mitsui could obtain orders in the United States only by selling at less than fair value. Because of this it is impermissible under the statute and under agency precedent for the ITA to revoke the outstanding finding. Nissei and Mitsui contend that, since they have made no shipments of impression fabric for four years and have provided written assurances that they will make no future shipments at less than fair value, they have met the Department's criteria for revocation. Thus, they conclude that the petitioners' projected margins are irrelevant. Even assuming, *arguendo*, that the calculation of a projected margin were relevant, the correction of certain calculation errors and assumptions made by the petitioners would result in the substantial reduction or elimination of any such margin.

Department's Position: We disagree with respondents that an analysis of whether or not future shipments may be made at not less than fair value is irrelevant to our decision regarding revocation of the antidumping finding with respect to Nissei and Mitsui. Written assurances that respondents will make no future sales at less than fair value are necessary, but not sufficient, for revocation. Under § 353.54(a) of the Commerce Regulations the Department may not exercise its discretionary authority to revoke an antidumping finding unless it is satisfied that there is no likelihood of resumption of sale at less than fair value. We have analyzed home market and U.S. prices projected by both respondents and the petitioners. Based on that analysis, we cannot conclude that there is no likelihood of resumption of sales at less than fair value. Therefore, revocation of the antidumping finding with respect to Nissei and Mitsui is not appropriate at this time.

Comment 2: The petitioners contend that the Department has not investigated the issue of transshipments of this Japanese merchandise via Canada. Thus, it has not been established on the record that, in fact, the Japanese producers had no shipments to the United States during the period of review. On the basis of this omission alone, the Department has no justification for revoking the finding.

Department's Position: We investigated the possibility of transshipments of this merchandise through Canada. Specifically, we reviewed the Customs quarterly report of unliquidated entries and found no evidence that these two firms shipped this merchandise to the United States directly or through a third country. We also asked the Customs Service if it knew of any shipments by these two firms of this impression fabric to the United States during the period; its response was negative.

Import statistics for inked and uninked ribbons are combined. Since inked ribbons were excluded from the original finding, the import statistics were not useful in determining whether or not there were possible transshipments of the subject merchandise through Canada. We conducted verifications of Nissei and Mitsui and found no sales or transshipments through a third country of impression fabric to the United States. Thus, after a thorough investigation, we found no evidence of shipments to the U.S. by these firms, or of transshipments of this merchandise through a third country.

Comment 3: The petitioners contend that the Department's refusal to investigate sales of impression fabric by Shirasaki Tape Co. ("Shirasaki") during this review has no basis in the law or under § 353.53(e) of the Commerce Regulations, which was in effect when the review was initiated.

Department's Position: This administrative review covers three exporters, Marubeni Corp., Mitsui & Co., Ltd., and Nissei Co., Ltd. We reject the petitioners' request to conduct a review of Shirasaki for the following reasons:

1. The original fair value investigation of sales by Shirasaki, conducted by the Treasury Department pursuant to the Antidumping Act of 1921, was discontinued (42 FR 65344, December 30, 1977). Thus, there was no final finding of sales at less than fair value by Shirasaki, and Shirasaki was not included in the finding (43 FR 22481, May 25, 1978).

Section 751 of the Trade Act of 1979 requires that the administering authority conduct an annual review of determinations made pursuant to an antidumping duty order, or a finding under the Antidumping Act of 1921. Since there was no final determination of sales at less than fair value by Shirasaki or a finding including Shirasaki, there is no basis for including Shirasaki in a section 751 review of this finding.

2. Also, the petitioners filed a second petition on June 10, 1985, alleging sales at less than fair value by Shirasaki and another firm. After investigating these new allegations the Department again found that Shirasaki was not selling this merchandise to the U.S. at less than fair value (51 FR 15815, April 28, 1986). Accordingly, we cannot include Shirasaki in a finding without the benefit of either a fair value investigation or an injury determination.

Final Results of the Review

Based on our analysis of the comments received, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following margins exist for the period May 1, 1982 through April 30, 1986:

Exporter	Margin (percent)
Marubeni Corp.	7.5 [1]
Mitsui & Co., Ltd.	7.5 [1]
Nissei Co., Ltd.	10.12 [1]

[1] No shipments during the period.

As provided in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any shipments from the remaining known manufacturers and/ or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (49 FR 19560, May 8, 1984).

For any future entries of this merchandise from a new exporter not covered by this or prior administrative reviews, whose first shipments occurred after April 30, 1986 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 10.12 percent shall be required. These deposit requirements are effective for all shipments of Japanese impression fabric of man-made fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Date: October 24, 1987.

[FR Doc. 87-25078 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-505]

Offshore Platform Jackets and Piles From the Republic of Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Final results of changed circumstances administrative review and revocation of antidumping duty order.

SUMMARY: On September 3, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping duty order on offshore platform jackets and piles from the Republic of Korea. The review covers the period from November 25, 1985.

We gave interested parties an opportunity to comment on our preliminary results and tentative determination to revoke. We received no comments. We therefore, determine that domestic interested parties are no longer interested in continuation of the order and we revoke the order. In accordance with the petitioner's notification, the revocation will apply to all offshore platform jackets and piles exported on or after November 25, 1985.

EFFECTIVE DATE: November 25, 1985.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 33462) the preliminary results of its changed circumstances administrative review of the antidumping duty order on offshore platform jackets and piles from the Republic of Korea (51 FR 18642, May 21, 1986). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of steel jackets (templates) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix drilling and/or production platforms to the ocean floor. Appurtenances include grouting systems, boating landings, pre-installed conductor pipes, and similar attachments. Offshore platform jackets and piles are currently classifiable under TSUS number 652.97 and HS item numbers 8430.49.40 and 8431.43.00. The review covers the period from November 25, 1985.

Final Results of the Review and Revocation

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on offshore platform jackets and piles from the Republic of Korea and that the order should be revoked on this basis.

Therefore, we are revoking the order on offshore platform jackets and piles from the Republic of Korea effective November 25, 1985. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after November 25, 1985, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This administrative review, revocation and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Dated: October 23, 1987.

[FR Doc. 87-25072 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-501]

Offshore Platform Jackets and Piles From Japan; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Final results of changed circumstances adminstrative review and revocation of antidumping duty order.

SUMMARY: On September 3, 1987, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping duty order on offshore platform jackets and piles Japan. The review covers the period from November 25, 1985.

We gave interested parties an opportunity to comment on our preliminary results and tentative determination to revoke. We received no comments. We therefore, determine that domestic interested parties are no longer interested in continuation of the order and we revoke the order. In accordance with the petitioner's notification, the revocation will apply to all offshore platform jackets and piles exported on or after November 25, 1985.

EFFECTIVE DATE: November 25, 1985.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 33461) the preliminary results of its changed circumstances administrative review of the antidumping duty order on offshore platform jackets and piles from Japan (51 FR 18641, May 21, 1986). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of steel jackets (templates) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix drilling and/or production platforms to the ocean floor. Appurtenances include grouting systems, boat landings, pre-installed conductor pipes, and similar attachments. Offshore platform jackets and piles are currently classifiable under TSUS number 652.97 and HS item numbers 8430.49.40 and 8431.43.00. The review covers the period from November 25, 1985.

Final Results of the Review and Revocation

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on offshore platform jackets and piles from Japan and that the order should be revoked on this basis.

Therefore, we are revoking the order on offshore platform jackets and piles from Japan effective November 25, 1985. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after November 25, 1985, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This administrative review, revocation and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

Date: October 23, 1987

[FR Doc. 87-25071 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-006]

Certain Steel Pipes and Tubes From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 19, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order that was in effect prior to October 1, 1984 on certain steel pipes and tubes from Japan. The review covers three exporters of this merchandise and the consecutive periods from March 1, 1982 through September 30, 1984. The Department has excluded Ontario Hydro (Canada) a fourth firm, from this administrative review because the only merchandise subject to the antidumping duty order which this firm exported during the review period was purchased from a Japanese exporter that had been excluded from the order.

We gave interested parties an opportunity to comment on the preliminary results. We received no timely comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1985, the Department of Commerce ("the Department") revoked the antidumping duty order on certain steel pipes and tubes from Japan, effective October 1, 1984 (50 FR 43758). On June 19, 1987, the Department published in the **Federal Register** (52 FR 23329) the preliminary results of its administrative review of the antidumping duty order that was in effect prior to October 1, 1984. We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of seamless heat-resisting pipes and tubes currently classifiable under items 610.5206, 610.5229 and 610.5234 of the Tariff Schedules of the United States Annotated, and seamless stainless pipes and tubes currently classifiable under items 610.5202, 610.5229 and 610.5230 of the Tariff Schedules of the United States Annotated.

The review covers three manufacturers/exporters of Japanese steel pipes and tubes, Kuze Bellows, Sanko Seisakusho and Tokyo Seimitsukan, and consecutive periods from March 1, 1982 through September 30, 1984. A fourth firm, Ontario Hydro (Canada), was excluded from this administrative review because the only merchandise subject to the antidumping duty order which this firm exported during the review period was purchased from a Japanese manufacturer that had been excluded from the order.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no timely comments or requests for a hearing. Based on our analysis, the final results of review are unchanged from those we presented in the preliminary results. We determine that the following margins exist for the consecutive periods from March 1, 1982 through September 30, 1984:

Manufacturer/Exporter	Margin (percent)	
	Stainless	Heat-resisting
Kuze Bellows	22.95	2.83
Sanko Seisakusho	22.95	2.83
Tokyo Seimitsukan	22.95	2.83

The Department will instruct the Customer Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

This administrative review, covering consecutive periods from March 1, 1982 through September 30, 1984, does not affect the revocation of the antidumping duty order. Therefore, we will instruct the Customs Service to continue to liquidate entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to antidumping duties.

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 19 CFR 353.53a.

Gilbert B. Kaplan,

Acting Assistnat Secretary for Import Administration.

Date: October 24, 1987.

[FR Doc. 87-25076 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-507-701]

Preliminary Affirmative Countervailing Duty Determination; Certain Circular Welded Carbon Steel Pipes and Tubes From Iran

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters in Iran of certain circular welded carbon steel pipes and tubes (hereinafter referred to as "standard pipe"), as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 336.14 percent *ad valorem.*

We are directing the U.S. Customs Service to suspend liquidation of all entries of standard pipe from Iran that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond for each such entry equal to 336.14 percent *ad valorem.*

If this investigation proceeds normally, we will make our final determination on or before January 5, 1988.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Mary Martin or Jessica Wasserman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2438, 377-2830 or 377-1442.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Iran of standard pipe. For purposes of this investigation, the following program is found to confer a bounty or grant:

- Foreign Exchange Benefits for Exporters (Wariznameh) Program.

We preliminarily determine the estimated net bounty or grant for standard pipe to be 336.14 percent *ad valorem.*

Case History

Since the last **Federal Register** publication pertaining to this investigation [the Notice of Initiation (52 FR 31798, August 24, 1987)], the following events have occurred. On August 28, 1987, we presented a questionnaire to the Government of Algeria in Washington, DC and requested that it forward the questionnaire to the Iranian authorities in its capacity as the protecting power for Iran in the United States. We requested a response to our questionnaire by September 28, 1987. We did not receive a response from either the Government of Iran or the manufacturers, producers, or exporters of the subject merchandise in Iran.

We based our initiation of this investigation on standard pipe, as defined in the "Scope of Investigation" section, on information supplied by the petitioners that an importer ("Benson") had made an offer of sale of standard pipe from Iran for delivery to an unrelated purchaser in the United States in the fall of 1987. Subsequent to our initiation Benson advised us that it had withdrawn its offer to sell Iranian standard pipe to an unrelated purchaser. In addition, Benson's counsel asserted that Benson is not responsible for any imports of such products from Iran, has not authorized any shipments, and will refuse to accept any such shipments, even if they are sent.

Although Benson subsequently revoked its offer to an unrelated U.S. purchaser, it is unclear as to whether there are any current contractual obligations between an Iranian exporter and Benson to ship standard pipe to the United States. Based on these facts we preliminarily determine that there is a "likelihood of sale" within the meaning of section 701(a) of the Act. We will further consider the issue of "likelihood of sale" for our final determination.

Scope of Investigation

The products covered by this investigation are certain circular welded carbon steel pipes and tubes, 0.375 inch or more, but not over 16 inches in outside diameter, as currently classifiable in the *Tariff Schedules of the United States Annotated (TSUSA)* under item numbers 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A-120, A-53, and A-135. These products are currently classifiable under the Harmonized System (HS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5030, 7306.30.5040, 7306.30.5045, 7306.30.5050, 7306.30.5060, 7306.30.5065, 7306.30.5070, and 7306.30.5075.

Analysis of Program

Because we did not receive a response to our questionnaire, we are using the best information available as required under § 355.39 of our regulations (19 CFR 355.39), adversely inferring countervailability and receipt of benefits based on the absence of a response. We will continue to seek information from our own sources to determine the countervailability and level of benefits of the program under investigation.

I. Program Preliminarily Determined to Confer a Bounty or Grant

We preliminarily determine that a bounty or grant is being provided to manufacturers, producers, or exporters of standard pipe under the following program:

Foreign Exchange Benefits for Exporters (Wariznameh) Program

Petitioners allege that Iranian exporters may receive Wariznamehs, or foreign exchange certificates, issued by the Iranian Central Bank. These certificates, which are given in addition to the rial value of the foreign currency surrendered, have a face value equal to the amount of foreign currency converted. Holders of these certificates may use them to import goods or may sell them to third parties.

In the *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Roasted In-Shell Pistachios from Iran (Pistachios)* (51 FR 35679, October 7, 1986), as best information available, we determined that the Wariznameh program was countervailable. We have received no further information on the Wariznameh program in this investigation. As best information available, we preliminarily determine that exporters of standard pipe from Iran benefit from the Wariznameh program. In addition, we preliminarily determine that the best information available for estimating the net bounty or grant received by exporters of standard pipe from Iran is the rate calculated in *Pistachios* for goods exported directly from Iran. This rate equals 336.14 percent *ad valorem*.

Verification

In accordance with section 776(a) of the Act, if we receive complete responses in a timely manner, we will verify the data used in making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Custom Service to suspend liquidation of all entries of standard pipe from Iran are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each entry in the amount of 336.14 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Regulations (19 CFR 355.35), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on November 19, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice in the **Federal Register**.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the business proprietary version and seven copies of the nonproprietary version of the pre-hearing briefs must be submitted to the Assistant Secretary by November 12, 1987. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.33(d) and 19 CFR 355.34, all written views will be considered if received not less than 30 days before the final determination is due, or if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

October 22, 1987.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 87–25073 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–DS–M

[C 580–504]

Offshore Platform Jackets and Piles From the Republic of Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of countervailing duty order.

SUMMARY: On September 3, 1987, the Department of Commerce published the preliminary results of its changed circumstances administrative review of the countervailing duty order on offshore platform jackets and piles from the Republic of Korea and announced its tentative determination to revoke the order. We determine that the interested parties are no longer interested in maintaining the countervailing duty order, and we are revoking the order. The review covers the period from July 19, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 33465) the preliminary results of its changed circumstances administrative review and its tentative determination to revoke the countervailing duty order on offshore platform jackets and piles from the Republic of Korea (51 FR 18643, May 21, 1986). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are steel jackets (template) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix offshore drilling and/or production platforms to the ocean floor. These products are used for conventional steel template platforms. Jackets and/or piles for "tower-type" platforms are not included in the order. Appurtenances include grouting systems, boat landings, pre-installed conductor pipes and similar attachments. Such merchandise is currently classifiable under item 652.97 of the Tariff Schedules of the United States. These products are currently classifiable under item numbers 8430.49.40 and 8431.43.00 of the Harmonized System. The review covers the period from July 19, 1985.

Final Results of Review and Revocation

We gave interested parties an opportunity to comment on the preliminarly results and tentative determination to revoke. We received comments from interested parties in favor of revocation of the countervailing duty order. As a result of our review, we

determine that the interested parties are no longer interested in maintaining the countervailing duty order on offshore platfrom jackets and piles from the Republic of Korea and that the order should be revoked on this basis.

Therefore, we are revoking the order on offshore platform jackets and piles from the Republic of Korea effective July 19, 1985. We will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after July 19, 1985, and to refund any estimated countervailing duties collected with respect to those entries.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and 19 CFR 355.41 and 355.42.

Gilbert B. Kaplan,

Acting Assistant Secretary, Import Administration.

Date: October 23, 1987.

[FR Doc. 87-25074 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DS-M

Semiconductor Technical Advisory Committee; Closed Meeting

A meeting of the Semiconductor Technical Advisory Committee will be held November 18, 1987 at 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Consititution Avenue, NW., Washington, DC. The Committee advised the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to Semiconductor equipment or technology.

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

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 30, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce. For further information call Ruth D. Fitts at 202-377-2583.

Dated: October 26, 1987.

Betty A. Ferrell,

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

[FR Doc. 87-2506 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

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

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

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-00015." A summary of the application follows.

Applicant: Aluminum Recycling Export Association, 1000 16th Street, NW., Suite 603, Washington, DC 20036, (202)785-0951

Application #: 87-00015

Date Deemed Submitted: October 16, 1987.

Members (in addition to applicant): Aluminum Smelting and Refining Co., Inc.; Batchelder-Blasius, Inc.; Roth Brothers Smelting Corp.; and Gettysburg Foundry Specialties Co.

Controlling Entity: None

Summary of the Application

Export Trade: Products

Unwrought alloys of aluminum (aluminum alloys), in the form of pig, ingot, rod, shot, drops, waffle or sows, made from aluminum base scrap or primary aluminum to conform to any or all specifications for the aluminum casting and steel making industries.

Export Trade Facilitation Services (as They Relate to the Export of Products)

Consulting, management, international market research, advertising, marketing, sales of goods and services, insurance, product research and design, legal assistance, packing and crating, transportation, warfing and handling, trade documentation and freight forwarding, communication and processing of foreign orders, warehousing, foreign exchange, financing, taking title to goods, and customs clearance.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) and Mexico.

Export Trade Activities and Methods of Operation

Aluminum Recycling Export Association (AREA) seeks certification to:

(1) Enter into exclusive agreements with its Members to act as their Export

Intermediary. These agreements may include any of the following provisions:

(a) Each Member independently will provide AREA with an estimate of what quantities and specifications of aluminum alloys it will make available for export through AREA, provided, however that each Member agrees to commit a minimum of 40,000 pounds per year for export through AREA.

(b) AREA can agree to purchase aluminum alloys from its Members.

(c) AREA will market and sell the aluminum alloys, either directly or through Export Intermediaries other than AREA to such purchasers in the Export Markets, at such prices, and on such terms as AREA shall determine.

(2) Purchase aluminum alloys from, and determine the prices of aluminum alloys which AREA will pay to, Member (and other) suppliers.

(3) Enter into exclusive or nonexclusive agreements with other Export Intermediaries for the sale of aluminum alloys in the Export Markets.

(4) Participate in meetings with one or more Member suppliers to deliver and discuss, or otherwise exchange, information with Member suppliers regarding:

a. The prices that AREA has charged or will charge in the Export Markets for each Member supplier's aluminum alloy;

b. The type, quality, and quantity of aluminum alloys available from Member suppliers for export;

c. Delivery dates, terms of sale, and other information necessary to arrange and complete export sales of the aluminum alloys;

d. General economic or business conditions in the Export Markets, including supply and demand conditions, prices and terms of sale in the Export Markets, and transportation and other costs incurred in exporting to the Export Markets;

e. AREA's sales results in the Export Markets, including orders shipped, costs of doing business, and other information relating to AREA's business in the Export Markets;

f. Quantities and prices of aluminum alloys purchased from each Member supplier for export, and the terms and conditions under which such purchases were made;

g. Matters concerning AREA's organization, governance, financial condition and membership;

h. Market strategies for the Export Markets, and other issues relating to sales and Export Trade Facilitation Services in the Export Markets and AREA's export business;

i. Information about U.S. and foreign legislation and regulations, including Federal programs affecting sales and Export Markets.

(5) Participate with all Member suppliers for the exclusive use of Member suppliers in statistical programs covering AREA's shipments, future orders, inventories and prices, provided, however, information disseminated to Members suppliers will be in an aggregated form.

(6) Enter into agreements with customers in the Export Markets wherein AREA may agree in each case to sell aluminum alloys in the Export Markets only to such customers, and/or such customers may agree not to purchase the alloys from any competitor of AREA.

(7) To act as a shippers association to negotiate favorable transportation rates and other terms with individual ocean common carriers and individual conferences.

(8) Prescribe the following conditions of membership to and termination from AREA:

a. AREA shall have the right to exclude firms or companies from membership in its organization.

b. AREA shall have the right to admit additional producers of aluminum alloys from time to time who:

(1) Receive a majority vote of AREA's Board of Directors;

(2) Make such capital contribution in the purchase of common shares of stock as is determined in good faith by AREA's Board of Directors. A fee shall be charged to cover initial start-up costs, including attorneys' fees incurred by AREA's Members; and

(3) Agree not to compete with AREA, during the period of membership in AREA and for two years thereafter, in the export of aluminum alloys to particular Export Markets, except as shall be specifically agreed upon in writing between the new Member and AREA.

c. Each Member shall have the right to withdraw its membership from AREA by giving 180 days' prior written notice to the remaining Members. The remaining Members shall then have the option to terminate AREA or pay the withdrawing Member the value of its stock, as adjusted, on the date of its withdrawal.

d. Any Member of AREA may be removed by a two-thirds vote of the Board of Directors with prior notice of the vote given to the Member. Removal shall be for due cause, including, but not limited to, violation of AREA's Bylaws or agreements entered into by and between Members, and loss of credit-worthiness.

e. The withdrawing or removed Member shall remain responsible for commitments made by such Member and by AREA on behalf of such Member prior to the effective date of such Member's withdrawal or removal. The withdrawing or removed Member shall reimburse AREA for all costs, including attorneys' fees, incurred as a result of withdrawal or removal.

Dated: October 22, 1987.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 87-25043 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Solicitation of Applications; Minority Business Development Program; Brooklyn, NY

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a three (3) year period, subject to available funds. The cost of performance for the first *twelve* months is estimated at $306,000 for the project performance of *April 1, 1988 to March 31, 1989.* The MBDC will operate in *Williamsburg, Brooklyn, NY.* Standard Metropolitan Statistical Area (SMSA). This project should focus on assisting the minority business community in general and specifically the Hasidic community of Williamsburg. The first year cost for the MBDC will consist of *$306,000* in Federal funds and a minimum of *$54,000* in Non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority

individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for applications is November 30, 1987. Applications must be postmarked on or before November 30, 1987.

ADDRESS: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, Room 3720, New York, NY 10278, (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: Gina A. Sanchez, Regional Director, New York Regional Office at (212) 264–3262.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information copies of application kits and applicable regulations can be obtained at the above address.

William R. Fuller,

Regional Director (Deputy), New York Regional Office.

Date: October 23, 1987.

[FR Doc. 87–24984 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–21–M

National Bureau of Standards

[Docket No. 70866–7166]

Proposed Federal Information Processing Standard (FIPS) for Standard Generalized Markup Language (SGML)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal information processing standard for standard generalized markup language (SGML).

SUMMARY: A Federal Information Processing Standard (FIPS) adopting the Standard Generalized Markup Language (SGML) is proposed for Federal agency use. This proposed FIPS adopts the International Standard for SGML (ISO 8879–1986), which was developed by Technical Committee 97—Information Processing Systems, of the International Organization for Standardization. This standard specifies a language for describing documents to be used in office document processing, electronic document interchange, and publishing.

Prior to submission of this proposed standard to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) an announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, ISO 8879–1986, which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Interested partties may obtain a copy of the technical specifications from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 642–4900.

DATE: Comments on this proposed FIPS must be received on or before January 27, 1988.

ADDRESS: Written comments concerning the adoption of SGML as a FIPS should be sent to: Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS SGML, Technology Building, Room B–154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Welsch, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975–3345.

Date: October 23, 1987.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication (date) Announcing the Standard for Standard Generalized Markup Language (SGML)

Federal InformationProcessing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to Section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Standard Generalized Markup Language (SGML) (FIPS PUB ___).

Category of Standard. Software Standard, Markup Language; Electronic Document Interchange.

Explanation. This publication announces the adoption of the International Standards Organization Standard Generalized Markup Language, (SGML), ISO 8879–1986, as a Federal Information Processing Standard (FIPS). ISO 8879–1986 specifies a language for describing documents to be used in office document processing, electronic document interchange, and publishing. The language provides a coherent and unambiguous syntax for describing the elements within a document. The language includes:

a. An abstract syntax for descriptive markup of the elements within a document.

b. A reference concrete syntax which binds the abstract syntax to particular delimiter characters and quantities.

c. Markup declarations that allow the definition of a specific vocabulary of generic identifiers and attributes for different document types.

d. Provision for arbitrary data content. This can include specialized data content notations that require interpretations different from general text, i.e., formulas, images, non-Latin alphabets, previously formatted text or graphics.

e. Entity references for referring to content located outside the mainstream of the document, such as separately written chapters, photographs, etc.

f. Special delimiters for processing instructions to distinguish them from descriptive markup. Processing instructions are systems and applications dependent.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. International Standards Organization ISO 8879–1986, Information Processing—Text and Office Systems—Standard Generalized Markup Language (SGML).

Related Documents.

a. ISO 9069, Information processing—SGML support facilities—SGML Document Interchange Format (SDIF). (Draft stage)

b. ISO 9070, Information processing—SGML support facilities—Registration procedures for public text. (Draft stage)

c. Federal Information Processing Standards (FIPS) Publication 29–2, Interpretation Procedures for Federal Information Processing Standards for Software.

Objectives. The primary objectives of this standard are:

—To provide a common markup language for a variety of document types and uses;

—To allow the portability of unformatted textual data among different installations and processing systems;

—To promote interchange of documents between systems of different manufacturers.

Applicability. This standard is intended to be used for documents that are processed by any text processing or word processing system. It is particularly applicable to: (a) documents that are intended for electronic printed output or exchange; (b) documents that are interchanged among systems with differing text processing languages; and (c) documents that are processed in more than one way, even when the procedures use the same text processing language. Documents that exist solely in final formatted form are not within the scope of applicability of this standard.

This standard applies to the development and acquisition of SGML systems. An SGML system includes an SGML parser, which must be able to recognize markup in conforming SGML documents; an entity manager, such as a file system or symbol table that can maintain and provide access to multiple entitles or units of information; and both or either of:

a. an implementation of one or more SGML applications; and/or

b. facilities for a user to implement SGML applications, with access to the SGML parser and entity manager.

If the SGML parser is a validating parser, it must find and report a reportable markup error if one exists, and must recognize and report ambiguous content models.

An implementation of SGML involves consideration of an entire SGML system.

Specifications. The ISO 8879–1986 Standard Generalized Markup Language defines the scope of the specification, the field of application, the syntax and semantics of SGML constructs, and requirements for conforming SGML applications and documents. All of the specifications of ISO 8879–1986, using the core concrete syntax, apply to FIPS SGML with the exception of the following optional features: SHORTREF; CONCUR; DATATAG; RANK; SHORTTAG; SUBDOC; SIMPLE; IMPLICIT; and EXPLICIT. The two optional features that are part of the FIPS SGML are OMITTAG (omitted tag minimization) and FORML (formal public identifiers). The core concrete syntax is a variant of the reference concrete syntax that has no short reference delimiters.

Implementation. The implementation of this standard involves two areas of consideration: acquisition of SGML systems and interpretation of the syntax and semantics of SGML constructs.

Acquisition of SGML Systems. This standard is effective [6 months after date of publication of final document in the **Federal Register**]. SGML systems developed or acquired for Federal use after this date should implement this standard. Conformance to this standard should be considered whether SGML systems are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce SGML systems conforming to the standard. The transition period begins on the effective date and continues for one year thereafter. The provisions of this publication apply to orders placed after the effective date.

Interpretation of FIPS SGML. Resolution of questions regarding this standard will be provided by NBS. Questions concerning the content and specifications of this FIPS PUB should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: SGML Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

Waivers. Under certain exceptional circumstances the head of the agency is authorized to waive the application of the provisions of this FIPS PUB. Exceptional circumstances which would warrant a waiver are:

a. significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard, and

b. the interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

Special Information. Another approach, to the interchange of documents, currently under development, is the Office Document Architecture and Office Document Interchange Format (ODA/ODIF), draft international standard (DIS 8613). NBS is currently working on the development of this draft standard which, when completed, will become a Federal Information Processing Standard.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication ____(FIPSPUBS ____), and title. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 87–25068 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Proposed Revision of Exploration License

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of application from Kennecott Consortium to revise exploration plan incorporated into exploration license issued October 29, 1984, and request for comments.

SUMMARY: On September 4, 1987, the Kennecott Consortium (KCON), 1515 Mineral Square, Salt Lake City, Utah 84112, submitted to the National Oceanic and Atmospheric Administration (NOAA) a proposal to change the exploration plan incorporated into the deep seabed mining exploration license, USA–4, issued to KCON by NOAA on October 29, 1984, pursuant to the Deep Seabed Hard Mineral Resources Act and 15 CFR Part 970. NOAA has determined that this proposal constitutes an application for revision of the license under 15 CFR 970.513, and is commencing public review procedures prescribed in 15 CFR 970.514(b).

KCON's current ten-year exploration plan, approved by NOAA in 1984, consists of a two-phase data collection effort: (i) The collection of coarse and fine scale bathymetric data based on sonar soundings which would provide maps of the sea floor topography in the entire license area, and (ii) the sampling of selected subareas by means of underwater photography to detect obstacles not detectable by sonar methods. In year ten of the plan, KCON will use this data to assess "mineability" and to select a suitable mining area for commercial recovery.

As a result of conflict resolution with U.S. and other international miners, and the subsequent exchange of data, KCON acquired a large amount of new exploration data, which was evaluated and incorporated into its existing data base during 1985 and 1986. KCON has advised NOAA that the composite of this supplemental data, together with previous exploration and development work performed by KCON, has eliminated the need for the extensive bathymetric/topographic data that KCON had originally proposed to collect in its ten-year plan.

In accordance with § 970.602 KCON is requesting a modification in the exploration plan to reflect the effects of the above data acquisition, and to change the schedule of expenditures. No change has been proposed in the objective of being prepared to file for a deep seabed mining commercial recovery permit by the end of the ten-year license period. KCON is requesting an equivalent credit value of expenditures for data acquisition for 1984 through 1986 of $5,786,000 toward its total ten-year expenditure plan of $6,000,000. KCON also proposes a consequent reduction in expenditures to less than $40,000 in 1987, $20,000 annually in 1988 through 1992; and $200,000 in 1993.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the application for revision and to provide comments by December 28, 1987.

These documents may be examined at 1825 Connecticut Avenue, NW., Suite 710, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Suite 710, Washington, DC 20235, (202) 673–5117.

Dated: October 26, 1987.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87–25047 Filed 10–28–87; 8:45 am]

BILLING CODE 1350–12–M

Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to commercial fishing operations within the U.S. exclusive economic zone (EEZ) during 1987 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

Scan Ocean Inc. 42 Rogers Street, Gloucester, Massachusetts 01930 on behalf of 7 Dutch fishing companies has applied for a Category 1 "Towed or Dragged Gear" general permit to take up to 20 cetaceans and 5 harbor seals in the North Atlantic Ocean.

From January through April 21, 1987, Netherland's fishing vessels have taken 7 common dolphins and 11 pilot whales in the U.S. EEZ. No fishing operations were conducted in 1986.

The application is available for review in the Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, Washington, DC 20235.

Dated: October 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87–25031 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–22–M

Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to commercial fishing operations within the U.S. exclusive economic zone (EEZ) during 1988 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

VEB Fischfang Rostock, 2501 Rostock 5, German Democratic Republic has applied for a Category 1 "Towed or Dragged Gear" general permit to take up to 20 cetaceans and 10 harbor seals in the North Atlantic Ocean.

In 1986, VEB Fischfang Rostock reported taking 3 common dolphins and 14 pilot whales during directed commercial fishing operations.

The application is available for review in the Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, Washington, DC 20235.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87–25032 Filed 10–28–87; 8:45 am]

BILLING CODE 3510–22–M

Marine Fisheries Advisory Committee; Partially Closed Meeting

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

Time and Date: The meeting will convene at 8:30 a.m., November 10, 1987,

and adjourn at approximately 3:30 p.m., November 11, 1987.

Place: Holiday Inn Providence-Downtown, 21 Atwells Avenue, Providence, Rhode Island.

Status: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). Parts of this meeting will be open to the public. The remainder of the meeting will be closed to the public. MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, environmental, state, consumer, academia, and other national interests.

Matters To Be Considered

Portions Open to the Public

November 10, 1987, 8:30 a.m.—5:00 p.m., model seafood surveillance program, interjurisdictional fisheries management, recreational fisheries, fisheries trade issues, and limited entry.

November 11, 1987, 8:30—12:00 a.m., domestic observers and fishery highlights.

Portion Closed to the Public

November 11, 1987, 1:30—3:30 p.m. (Executive Session), budget and program planning priorities.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with concurrence of the General Counsel, formally determined on October 23, 1987, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the Executive Session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. section 552b(c)(9)(B) as information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, Constituent Affairs Staff, Office of Legislative Affairs, NOAA, Washington, DC 20235, Telephone: (202) 673–5429.

Dated: October 26, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–25029 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Miami Seaquarium (P35F)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:*
   a. Name: Miami Seaquarium
   b. Address: 4400 Rickenbacker Causeway, Miami, Florida 33149
2. *Type of Permit:* Public Display
3. *Name and Number of Marine Mammals:*
   False killer whales (*Pseudorca crassidens*)—4
   Pacific bottlenose dolphins (*Tursiops truncatus*)—4
   Pacific white-sided dolphins (*Lagenorhynchus obliguidens*)—4
   Risso's dolphins (*Grampus griseus*)—4
4. *Type of Take:* Permanent removal from the wild.
5. *Location of Activity:* Taigi, Japan
6. *Period of Activity:* 2 Years

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm 805, Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 23, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87–25030 Filed 10–28–87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Bristol-Myers

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Bristol-Myers, having a place of business in New York, NY 10154, an exclusive right in the United States and foreign countries to practice the invention embodied in U.S. Patent Applications S.N. 6–769,016, S.N. 6–937,925 and S.N. 7–084,055, "Antiviral Compositions and Methods." The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Robert P. Auber, Director, Officer of Federal

Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc 87-25000 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License; Springs Industries

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Springs Industries, Inc. having a place of business in Fort Mill, SC 29715 an exclusive right in the United States to practice the invention embodied in U.S. Patent 4,629,470, "Process for Dyeing Smooth-dry Cellulosic Fabric." The patent rights in these inventions have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Dr. David T. Mowry, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-25001 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

October 23, 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 October 30, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4112. 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) 566-6828. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established restraint limits for cotton and wool textile products in Categories 359-V, 445/446 and 448, produced or manufactured in the People's Republic of China and exported during 1987. As a result, the limits for Categories 359-V, 445/446 and 448, which are currently filled, will re-open.

Background

A CITA directive dated December 23, 1986, (51 FR 47041) established import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 359-V (vests), 445/446, 448 and 669-P (man-made fiber bags), produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. A subsequent directive dated April 17, 1987 (52 FR 13115) established restraint limits for man-made fiber textile products in Category 637, among others, for the same twelve-month period.

Under the terms of the bilateral textile agreement of August 19, 1983, as amended, and at the request of the Government of the People's Republic of China, the limits for Categories 359-V, 445/446 and 448 are being increased by application of swing. To account for the swing applied to Category 359-V, the limit for Category 669-P is being reduced. The limit for Category 637 is being reduced to account for th swing applied to Categories 445/446 and 448.

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, 1985 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

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

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 23, 1987.

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

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives of December 23, 1986 and April 17, 1987 concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 30, 1987, the directives of December 23, 1986 and April 17, 1987 are amended to include adjustments to the previously established restraint limits for the following categories, as provided under the terms of the bilateral agreement of August 19, 1983, as amended [1]:

Category	Adjusted 12-mo. limit [1]
359-V [2]	524,074 pounds.
445/446	278,649 dozen.
448	20,214 dozen.
637	259,917 dozen.
669-P [3]	2,680,939 pounds.

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

[2] In Category 359-V, only TSUSA numbers 381.0258, 381.0554, 381.3949, 381.5800, 381.5920, 384.0451, 384.0648, 384.0650, 384.0651, 384.3449, 384.3450, 384.4300, 384.4421 and 384.4422.

[3] In Category 669-P, only TSUSA number 385.5300.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

[1] The agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yard equivalent total, provided that the amount of increase is compensated by an equivalent square yard decrease in one or more other specific limits in that agreement year; (2) the specific limits for categories may be increased for carryover or carryforward; and (3) administrative arrangement or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25046 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

October 23, 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 October 30, 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) 343-6494. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the limits for certain individual categories and the Group II limit for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. As a result, the limit for Group II catgories, which are currently closed, will re-open.

Background

A CITA directive dated April 7, 1987 (52 FR 11723) established limits for certain specified categories of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, including a limit for Group II categories and limits for Categories 310/318, 313, 315, 335, 336/636, 337, 338/339/340, 341, 342, 347/348 and 363, produced or manufactured in India and exported during the agreement year which began on January 1, 1987 and extends through December 31, 1987. Pursuant to a request from the Government of India and under the terms of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Textile Agreement of February 6, 1987, between the Governments of the United States and India, the restraint limits for Categories 336/636, 338/339/340, 341, 342, 347/348 and Group II are being increased, variously, by application of swing and carryforward. The limits for Categories 310/318, 335, 337 and 363 are being reduced to account for the swing applied to the foregoing categories. The reduction in Categories 310/318, 335, 337 and 363 also account for swing applied to Categories 313 and 315 which are being increased in a separate directive.

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 (49 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 (15 FR 25386), July 29, 1986 (51 FR 27068) and Statistical Headnote 5, Schedule 3 of the Tarrif Schedule of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HHC will be published in the **Federal Register.**

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

Arthur Garel,

Acting Chairman, Committee for the Implementtion of Textile Agreements.

October 23, 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 issued to you on April 7, 1987 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 30, 1987, the directive of April 7, 1987 is amended to include the following adjusted restraint limits, under the terms of the bilateral textile agreement of February 6, 1987 [1]:

Category	Adjusted 12-mo. limit [1]
310/318	4,699,890 square yards.
335	130,262 dozen.
336/636	483,800 dozen.
337	69,548 dozen.
338/339/340	1,356,533 dozen.
341	2,783,387 dozen.
342	448,400 dozen.
347/348	309,349 dozen.
363	14,174,528 numbers.
Group II:	
300, 301, 311, 312, 314, 316, 317, 319, 320, 330-334, 345, 349-359, 360-362, 369-O [2], 600-605, 630-635, 637-659, 665pt.[3], 666-670, and 831-859, as a group.	152,250,000 square yards equivalent.

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

[2] In Category 369-O, all TSUSA numbers except 366.2840, 360.7600 and 361.5420.

[3] In Category 665pt., all TSUSA numbers except 360.7800 and 361.5426.

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,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25101 Filed 10-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Consultations with the Government of Turkey

October 26, 1987.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested call (202) 377-3740.

On September 29, 1987, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles and in accordance with section 304 of the Agricultural Act of 1956, requested the Government of Turkey to enter into

[1] The provisions of the bilateral agreement, provide, in part, that: (1) group and specific limits may be exceeded by designated percentages for swing, carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

consultations concerning exports to the United States of certain cotton textile products in Category 338, produced or manufactured in Turkey.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Turkey, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton knit shirts in Category 338, produced or manufactured in Turkey and exported to the United States during the twelve-month period which began on September 29, 1987 and extends through September 28, 1988, at a level of 445,720 dozen.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 338 or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Turkey, further notice will be published in the **Federal Register.**

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).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Turkey—Market Statement

Category 338—Men's and Boys' Cotton Knit Shirts and Blouses

September 1987.

Summary and Conclusions

U.S. imports of Category 338 from Turkey were 445,720 dozen during the year ending June 1987, nearly seven times the 65,565 dozen imported a year earlier. During the first six months of 1987, imports of Category 338 from Turkey reached 328,433 dozen, seven times the 45,726 dozen imported during the same period of 1986 and twice the total imported in calendar year 1986.

The market for Category 338 has been disrupted by imports. The sharp and substantial increase in imports from Turkey has contributed to this disruption.

U.S. Production and Market Share

U.S. production of men's and boys' cotton knit shirts and blouses has been on the decline, dropping from 16.2 million dozen in 1982 to a depressed 13.5 million dozen in 1985, a decline of 17 percent. Production in 1986 partially recovered from 1985, reaching 15 million dozen, but remained three percent below the 1984 level and five percent below the 1983 level. The domestic manufacturers' share of the market fell from 71 percent in 1982 to 57 percent in 1986.

U.S. Imports and Import Penetration

U.S. imports of Category 338 grew from 6.8 million dozen in 1982 to 11.4 million dozen in 1986, a 67 percent increase. During the first six months of 1987, imports of Category 338 reached 7.6 million dozen, 34 percent above the level imported during the same period in 1986. The ratio of imports to domestic production increased from 42 percent in 1982 to 76 percent in 1986.

Duty-Paid Value and U.S. Producers' Price

Approximately 80 percent of Category 338 imports from Turkey during the first six months of 1987 entered under TSUSA numbers 381.4010—men's and boys' cotton knit T-shirts, excluding all white T-shirts, not ornamented; and 381.4130—men's and boys' cotton knit shirts, excluding T-shirts, sweatshirts and tanktops, not ornamented. These garments entered the U.S. at duty-paid landed values below U.S. producer's prices for comparable garments.

[FR Doc. 87-25045 Filed 10-28-87; 8:45 am]
BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI86-698-001 et al.]

Amoco Production Co. et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

October 26, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 10, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C186-698-001 (G-7518), B, Sept. 28, 1987.	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Arkla Energy Resources, a division of Arkla, Inc., Greenwood-Waskom Field, Caddo Parish, Louisiana and Harrison County, Texas.	(1)	
C186-698-001 (G-10923), B, Sept. 28, 1987.	.....do	Simsboro Field, Lincoln Parish, Louisiana.	(1)	
C186-698-001 (C163-749), B, Sept. 28, 1987.	.....do	Cheniere Field, Ouachita Parish, Louisiana.	(1)	
C186-699-001, A, Oct. 7, 1987 [2].	.....do	.....do	(3)	
C188-6-000, B, Oct. 5, 1987.	Fowler & McDaniel, c/o Robert K. Anderson, P.O. Box 3858, Midland, Texas 79702.	El Paso Natural Gas Company, Rosa H. Barnett "D" #1 and Marathon Gordon #1 Wells, Benedum Field, Upton County, Texas.	(4)	
C187-940-000, B, Sept. 29, 1987 [5].	R.C. Bennett Company, Box 264, Midland, Texas 79702.	Exxon State #1 and #2 Wells, Winchester-Upper Penn Field, Eddy County, New Mexico.	(6,34)	
C187-941-000, B, Sept. 29, 1987 [5].	.....do	Lone Tree #1 Well, Penasco Draw Field, Eddy County, New Mexico.	(6,7)	
C188-26-000, B, Oct. 13, 1987.	Bettis, Boyle & Stovall, P.O. Box 1240, Graham, Texas 76046.	SW, SW, Sec. 14-T26S-R37E, Lea County, New Mexico.	(8)	
C188-27-000, B, Oct. 13, 1987.	.....do	T25S, R37E & T26S, R37E, Lea County, New Mexico.	(8)	
C188-34-000 (C175-137), B, Oct. 15, 1987.	Enron Oil & Gas Company, P.O. Box 1188, Houston, Texas 77251.	Texas Eastern Transmission Corporation, Tatton Ranch Area, Refugio County, Texas.	(9)	
C188-33-000, B, Oct. 15, 1987.	.....do	Texas Gas Transmission Corporation, North Maurice Field, LaFayette Parish, Louisiana.	(10)	
C188-28-000 (C163-1206), B, Oct. 13, 1987.	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	K N Energy, Inc., Alkali Butte Field, Fremont County, Wyoming.	(11)	
C188-29-000 (C166-794), B, Oct. 13, 1987.	Texaco Inc.	Transwestern Pipeline Company, Mendota-Cree Flowers Field, Roberts County, Texas.	(12)	
C188-35-000, F, Oct. 16, 1987.	Mesa Operating Limited Partnership (Succ. in Interest to Tenneco Oil Company), P.O. Box 2009, Amarillo, Texas 79189-2009.	Colorado Interstate Gas Company, Keyes Field, Cimarron County, Oklahoma.	(13)	
C188-38-000 (C166-902), B, Oct. 19, 1987.	Mesa Operating Limited Partnership	Mountain Fuel Resources, Inc., Canyon Creek Field, Sweetwater County, Wyoming.	(14)	
C188-25-000 (C179-396), B, Oct. 13, 1987.	Multistate Oil Properties, N.V., P.O. Box 2511, Houston, Texas 77001.	Northern Natural Gas Company, Division of Enron Corp., Mocane-Laverne Field, Beaver County, Oklahoma.	(15)	
C188-21-000 (C179-372), B, Oct. 13, 1987.	.....do	Logan Field, Beaver County, Oklahoma.	(15)	
C179-390-001, B, Oct. 13, 1987.	.....do	ANR Pipeline Company, Mocane-Laverne Field, Ellis County, Oklahoma.	(16)	
C188-20-000 (C167-714), B, Oct. 13, 1987.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Williams Natural Gas Company, Waynoka, N.E. Field, Woods County, Oklahoma.	(17)	
C188-23-000 (C164-644), B, Oct. 13, 1987.	.....do	Natural Gas Pipeline Company of America, Various Fields, Woodward County, Oklahoma.	(17)	
C188-24-000 (C168-623), B, Oct. 13, 1987.	.....do	Panhandle Eastern Pipe Line Company, Putnam Field, Dewey County, Oklahoma.	(18)	
C173-12-002, D, Oct. 19, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	ANR Pipeline Company, Eugene Island Area, Offshore Louisiana.	(19)	
C173-856-002, D, Oct. 14, 1987.	.....do	United Gas Pipe Line Company, S.W. Red Fish Bay Field, Nueces County, Texas.	(20)	
C161-1401-000, D, Oct. 13, 1987.	.....do	Transwestern Pipeline Company, R.W. Hord Lease, Worsham Field, Reeves County, Texas.	(21)	
C188-37-000 (C177-617), B, Oct. 15, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Northern Natural Gas Company, Division of Enron Corp., Perryton Field, Ochiltree County, Texas.	(22)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-2979-000, D, Oct. 13, 1987.	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Phillips Petroleum Company, Hugoton Field, Texas County, Oklahoma.	[23]	
G-5181-001, D, Oct. 13, 1987.	.....do	Northern Natural Gas Company, Division of Enron Corp., Guymon-Hugoton Field, Texas County, Oklahoma.	[24]	
C163-1142-000, D, Oct. 13, 1987.	.....do	Hansford, *et al.* Field, Lipscomb County, Texas.	[25]	
C163-1427-001, D, Oct. 13, 1987.	.....do	Arkansas Louisiana Gas Company, N. Casper Field, Blaine County, Oklahoma.	[26]	
C178-1214-001, D, Oct. 13, 1987.	.....do	Cities Service Gas Company, Alpar-Tonkawa Field, Hemphill County, Texas.	[27]	
C188-40-000 (G-15267), B, Oct. 19, 1987.	.....do	Columbia Gas Transmission Corporation, Midland Field, Acadia Parish, Louisiana.	[28]	
C188-31-000, B, Oct. 13, 1987.	Edwards & Leach Oil Company, 600 Triad Center, 501 Northwest Expressway, Oklahoma City, Okla. 73118.	Lone Star Gas Company, Eola-Robberson Field, Garvin County, Oklahoma.	[29]	
G-6591-002, D, Oct. 15, 1987.	Conoco Inc., P.O. Box 2197, Dallas Texas 77252.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Rincon Field, Starr County, Texas.	[30]	
G-17451-000, D, Oct. 19, 1987.	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Northern Natural Gas Company, Division of Enron Corp., S/2 and NE/4 Sec. 28-33S-21W and SW/4 Sec. 27-33S-21W, Clark County, Kansas.	[31]	
C169-110-002, F, Oct. 19, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Williston Basin Interstate Pipeline Co., Gillette Gas Plant, Campbell County, Wyoming.	[32]	
C172-762-002, D, Oct. 19, 1987.	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	Northern Natural Gas Company, Division of Enron Corp., Eunice Gas Plant, Lea County, New Mexico.	[33]	
C161-601-001, D, Oct. 19, 1987.	.....do	.....do	[33]	
C172-271-002, D, Oct. 19, 1987.	.....do	El Paso Natural Gas Company, Eunice Gas Plant, Lea County, New Mexico.	[33]	
G-5298-000, D, Oct. 19, 1987.	.....do	.....do	[33]	

[1] Applicant requests to extend the term of the limited-term abandonment authority through December 31, 1989, that was granted in Docket No. C186-698-000 by order issued November 28, 1986.

[2] Application received September 28, 1987, with partial payment of filing fee. Filing date is date of receipt in full of filing fee.

[3] Applicant requests to extend the term of the blanket limited-term certificate, with pregranted abandonment, through December 31, 1989, that was granted in Docket No. C186-699-000 by order issued November 28, 1986, and subject to the request for extension of limited-term abandonment authority in Docket No. C186-698-001.

[4] Applicant requests permanent abandonment of its sale to El Paso from two wells subject to gas purchase contracts dated March 1, 1969, and May 21, 1973. Applicant also requests pregranted abandonment for a period of three years for sales of the subject gas to an alternate purchaser under Applicant's small producer certificate in Docket No. CS69-42.

In support of its application Applicant states that the primary terms of both contracts expired on January 1, 1985, and El Paso verbally notified Applicant that it desires to cease takes under the subject gas contracts due to excessive hydrogen sulfide in the gas stream. Applicant states it has located an alternative casinghead gas purchaser which has existing treating facilities. Deliverability is approximately 170 Mcf/day. The gas is NGPA section 104 flowing gas.

[5] Additional material received October 13, 1987.

[6] Applicant requests authorization to abandon the sale of gas to El Paso from the subject well(s) for a period of one year. Applicant also requests one-year pregranted abandonment for spot market sales of the subject gas under Applicant's small producer certificate in Docket No. CS74-300.

In support of its application Applicant states that gas production from the affected well(s) has been curtailed since February 1, 1986, and is expected to remain curtailed for an indefinite period of time.

[7] In addition, Applicant states, notice was received from El Paso to shut-in the affected wells on February 23, 1987, and to this date, the wells continue to be shut-in. Deliverability is approximately 514 Mcf/day. The gas is NGPA section 104 post-1974 gas.

[8] Gas purchase agreement expired 10-1-87; El Paso Natural Gas Company has informed Bettis, Boyle & Stovall of their unwillingness to continue purchasing under the contract terms or to extend the agreement. Seller desires to have the gas transported through El Paso's pipeline to a third party purchaser.

[9] By Assignment dated 2-3-82, Belco Petroleum Corporation conveyed all its interest in the lands subject to the contract dated 8-9-84, to Charles M. Green, effective 12-1-80.

[10] Savy Duhon No. 1 well has been plugged and abandoned.

[11] The subject contract between Texaco Inc. and Kansas-Nebraska Natural Gas Company, Inc., expired by its own terms on 6-13-84; all wells, attributable to the dedicated acreage, are non-productive and have been plugged and abandoned. All applicable gas reserves have been depleted.

[12] Contract expired 9-6-86. All gas well gas reserves are depleted. The only remaining lease was surrendered in 1974.

[13] Effective 6-1-86, Tenneco Oil Company conveyed and assigned unto Mesa Operating Limited Partnership certain acreage.

[14] Due to abandonment, Gas Purchase Contract dated 2-1-66, was cancelled effective 5-1-87.

[15] Multistate sold certain acreage effective November 1, 1986, to Spess Oil Company.

[16] Multistate assigned certain acreage to Bell & Kinley Company.
[17] Tenneco sold certain acreage effective December 1, 1986, to Vanguard Oil & Gas, Inc.
[18] Tenneco sold certain acreage to Unit Corporation.
[19] Effective 2-n-83, ARCO assigned its interest in certain acreage to Samedan Oil Corporation.
[20] By assignment dated 12-1-84; ARCO assigned its interest in certain acreage to Kelly Oil Company.
[21] By assignment effective 1-1-87, ARCO assigned its interest in certain acreage to Hondo Oil and Gas Company.
[22] Effective 1-1-87, ARCO assigned its interest in certain acreage to Hondo Oil and Gas Company.
[23] Sun assigned its interest in Property No. 808629, Berry E. Unit, to Pan Eastern Exploration Co. and Cabot Petroleum Corporation.
[24] Sun assigned its interest in Property No. 843020, Interstate E GU, to Cities Service Oil and Gas Corporation.
[25] Sun assigned its interest in Property No. 595175, Larkey Gas Unit "A", to Kaiser-Francis Oil Company.
[26] Sun assigned its interest in Property No. 693879, Smith "F" Unit, to Kaiser-Francis Oil Company.
[27] Sun assigned its interest in Property No. 662674, Ora Ramsey to Wellog Petroleum Corporation.
[28] No active leases remaining under Rate Schedule No. 98.
[29] Lone Star Gas Company's Katy Plant was permanently shut down on 11-21-86. Therefore, it is impossible for Lone Star to purchase the gas from the Gene Wood #1 Well under Contract dated 4-18-78. Edwards & Leach Oil Company proposes to sell this gas in intrastate commerce to Sohio Petroleum Company.
[30] By Assignment executed 3-2-87, retroactively effective 2-26-86, Conoco Inc. assigned unto Southern Resource Company, depths down to but not below 6,500 feet underlying an 80-acre tract out of the M. M. Garcia Survey 970, Abstract 1144 (a portion of Conoco Land Lease No. 23784).
[31] By Assignment of Oil and Gas Leases and Bill of Sale effective 4-1-87, Cities assigned its interest in the Dome "A" unit to G. L. Stafford, Jr.
[32] Effective 3-31-87, ARCO purchased all of British Borneo Petroleum Syndicate's interest in the Gillette Plant.
[33] Assignment of a part of Texaco Producing Inc.'s interest in certain acreage to Sirgo Brothers, Inc., and Timothy D. Collier.
[34] In addition, Applicant states, notice was received from El Paso to shut-in the affected well on January 17, 1987, and to this date, the well continues to be shut-in. Deliverability is approximately 46 Mcf/day. The gas is NGPA section 104 post-1974 gas.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-25090 Filed 10-28-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP87-559-000 et al.]

Natural Gas Certificate Filings; El Paso Natural Gas Co. et al.

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Co.

[Docket No. CP87-559-000]

October 20, 1987

Take notice that on September 30, 1987, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP87-559-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate certain replacement field compression at El Paso's existing Blanco Field Plant located in San Juan County, New Mexico, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

El Paso states that by orders issued June 19, 1952, June 29, 1953, November 25, 1955, December 19, 1956, March 26, 1958, April 15, 1963, June 10, 1969, and June 30, 1971, all as amended, at Docket Nos. G-1630, G-2106, G-8940, G-10499, G-11797, CP63-207, CP69-203, and CP71-214, respectively, El Paso received Commission authorization to construct and operate, *inter alia*, the Blanco Field Plant located in San Juan County, New Mexico. It is stated that the Blanco Field Plant consists of, *inter alia*, twenty-seven field compression units totaling 78,510 horsepower, and said horsepower was initially utilized by El Paso to compress a daily quantity of up to approximately 700 MMcf of natural gas received from various field sources situated behind the plant.

It is stated that the twenty-seven compressor units located at the Blanco Field Plant are segregated into the "A," "B," and "C" Plants. It is further stated that the "A" and "B" Plants can operate in parallel service, while the "C" Plant is located upstream and operates in series with the "A" and "B" Plants. El Paso advises that these plants are necessary to receive and compress quantities of natural gas from: (i) The Blanco Field: (ii) Ignacio dry gas to volumes; and (iii) volumes of gas from Gas Company of New Mexico ("GCNM"). It is stated that the two units at the "C" Plant, which total 44,560 horsepower, currently receive approximately 500 MMcf per day from the Blanco Field, and after compression at the "C" Plant, the gas stream splits, with approximately 320 MMcf per day discharged to the inlet of El Paso's "B" Plant and approximately 180 MMcf per day discharged directly to the inlet of the Conoco/Tenneco Deep Extraction Plant ("Conoco Plant").[1] It is further stated that the eleven units located at the "B" Plant, totalling 18,330 horsepower, currently compress up to 320 MMcf per day from the "C" Plant which volumes are also discharged directly to the Conoco Plant, and the fourteen units at the "A" Plant, which total 15,400 horsepower, currently receive, compress, and deliver to El Paso's mainline up to 141.5 MMcf per day received from the Ignacio dry gas source and GCNM.

El Paso states that periodic operational problems have occurred at the "B" Plant. It is explained that the primary cause of such problems has been directly attributed to the fact that the "B" Plant's foundation was constructed on an alluvial fill in an ancient river bed which river bed has proven over time to be an unstable and collapsing soil, and which when heavily loaded and unstabled by surface run-off or ground water, tends to shrink. El Paso advises that in the "B" Plant, as a consequence of the foundation's settling, a number of compressor crankshafts have failed, engine blocks have cracked, and plant piping has become stressed. It is stated that these facility problems, all of which are traceable to the foundation settling, [2] present continuing repair expenses and compressor unit down-time while repairs are made, in excess of the normal maintenance and repair experience for similar facilities of like age situated on El Paso's system. El Paso advises, for example, that in the last two and one-half years, three units at the "B" Plant have broken their crankshafts and each cost approximately $250,000 to repair. It is stated that the resultant down-time for two of the damaged compressor units at the "B" plant was a total of 242 days and Unit 8B, since its crankshaft failure in 1986, is still not back in service.

[1] The Conoco Plant was installed as a joint undertaking by Conoco Inc. and Tenneco Oil Company as a part of a special overriding royalty settlement. See FERC order issue June 26, 1985 at Docket No. CP74-314-014.

[2] A geotechnical review of past studies indicates that the soil in this river bed can collapse as much as ten percent of the total volume. There is presently up to ninety feet of this kind of soil beneath the "B" Plant, which in some areas has settled up to one foot.

El Paso states that it has concluded an alternative course of action for solution of the problem is preferrable. Such action would require El Paso to construct and operate another plant using a new gas turbine-driven centrifugal compressor located at another site within the Blanco Field Plant to replace and provide the compression service now offered by the "B" Plant. Specifically, El Paso proposes to construct and operate one new GE Frame 5 Model B gas turbine-driven centrifugal compressor, consisting of 31,050 ISO horsepower, within the existing Blanco Field Plant yard but at a more stable site. El Paso states that the proposed new compressor unit, hereinafter referred to as the "D" Plant, would provide a similar gas supply compression service to the service now provided by the existing "B" Plant compression and additionally would provide El Paso with the pressure-decline capability to move volumes from the Blanco Field during the next few years when the existing pressures are anticipated to drop below the operating range of the existing "C" Plant.

Comment date: December 4, 1987, in accordance with Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP87-547-000]

October 22, 1987.

Take notice that on September 21, 1987, Arkla Energy Resources, a division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87-547-000 an application pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessary authorizing the firm transportation of up to 150,000 MMBtu equivalent of natural gas per day, and the interruptible transportation of up to 150,000 MMBtu equivalent of natural gas per day on behalf of Vesta Energy Company and ESCO Exploration, Inc. (Shipper), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER proposes to provide transportation in accordance with an agreement, as amended, between AER and Shipper (Agreement), which contemplates firm transportation by AER of up to 100,000 MMBtu per day in 1987 and up to 150,000 MMBtu per day thereafter. AER states that it would provide interruptible transportation of up to 150,000 MMBtu per day throughout the term of the Agreement. In this regard, AER states that it has agreed to receive natural gas from Shipper at specified points througout AER's transmission and gathering systems and would transport and deliver, for the account of Shipper, thermally equivalent volumes to various specified points of delivery on AER's transmission system. The Agreement is for a primary term ending July 1, 1995, and continues from year to year thereafter. For this service, AER proposes to charge Shipper rates that are the same as those approved by the Commission for partial requirements transportation service in Docket No. RP86-106-000.

AER states that the proposed service would serve the public convenience and necessity because it would provide AER an opportunity to increase its system load factor and thereby lower AER's unit costs and because it would stimulate the exploration for and development of reserves along AER's gathering and transmission system.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Co.

[Docket No. CP88-14-000]

October 22, 1987.

Take notice that on October 8, 1987,[3] ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP88-14-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANR to provide natural gas sales service to Battle Creek Gas Company (BCGC) and to increase its natural gas sales service to Michigan Gas Utilities Company (MGU), and incident thereto to construct and operate certain facilities necessary to provide such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to provide firm sales service to BCGC, a new customer, of 4,700 dth of contract demand with an annual contract quantity of 1.7 million dth. ANR proposes to provide MGU, a current firm sales customer of ANR, an additional 12,500 dth of contract demand and an additional 3.2 million dth of annual contact quantity. It is stated that BCGC and MGU sales services will be rendered by ANR under its Rate Schedule CD-1.

ANR's application states that in order to accomplish the delivery of firm sales gas to both BCGC and MGU, ANR is requesting authorization to construct and operate 65.3 miles of natural gas pipeline and certain natural gas measurement facilities. These facilities estimated to cost 14.0 million extend north from ANR's existing mainline facilities in DeKalb County, Indiana to its terminus just south of the City of Battle Creek in Calhoun County, Michigan.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Columbia Gas Transmission Corp.

[Docket No. CP88-12-000]

October 22, 1987.

Take notice that on October 7, 1987, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP88-12-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain firm sales service to an existing wholesale customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia states that two of its wholesale customers, T.W. Phillips Gas and Oil Company (Phillips) and Acme Natural Gas Company (Acme), have agreed to merge Acme into Phillips. Columbia states that in conjunction with the merger, Phillips and Acme have requested that Acme's currently effective contract demand level under Columbia's Rate Schedule CDS of 19,860 dt per day (exclusive of the first year Order 436 [4] contract demand reductions of 3,182 dt per day and the exercise of the second year Order 436 reductions which may further reduce Acme's contract demand level to 13,496 dt per day effective November 1, 1987) be reduced to 4,750 dt per day on November 1, 1987, or the first day of the month following the effective date of the merger, whichever is later. The reduced contract demand for Acme of 4,750 dt per day plus the present contract demand of Phillips of 250 dt per day would result in a contract demand for Phillips of 5,000 dt per day under

[3] October 16, 1987, ANR filed a substitute application to change the estimated cost of its facilities and the mileage of pipeline to be constructed.

[4] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436 [Reg. Preambles 1982-1985] FERC Stats. & Regs. Paragraph 30,665 (1985), *modified*, Order No. 436-A, [Reg. Preambles 1982-1985] FERC Stats. & Regs. Paragraph 30, 675 (1985), *modified further*, Order No. 436-B, III FERC Stats. & Regs. Paragraph 30,688 *reh'g denied*, Order No. 436-C, 34 FERC Paragraph 61,404, *reh'g denied*, Order No. 436-D, 34 FERC Paragraph 61,405, *reconsideration denied*, Order No. 436-E, 34 FERC Paragraph 61,403 (1986), *vacated and remanded, sub nom.*, Associated Gas Distributors v. FERC, No. 85-1811 (D.C. Cir June 23, 1987).

Columbia's Rate Schedule CDS, it is indicated. Acme's current maximum daily quantity of 3,175 dt per day and its winter contract quantity of 177,800 dt are under Columbia's WS Rate Schedule and would not be affected by the proposed abandonment, it is stated. Columbia states that Phillips would execute new service agreements for the combined contract demand service and Acme's present winter service.

Columbia indicates that it would initiate a 2,000 dt per day of firm transportation service under Rate Schedule FTS to Phillips pursuant to Part 284 of the Commission's Regulations and Columbia's existing authorization under its blanket certificate at Docket No. CP86–240–000.

Columbia requests authorization for the abandonment of 15,110 dt per day of contract demanded sales service to Acme in Columbia's Zone 6, effective November 1, 1987, or the first day of the month following the effective date of the merger, whichever is later, resulting in a reduction in the firm sales service entitlement to Acme under Rate Schedule CDS from 19,860 to 4,750 dt per day.

Columbia indicates that in connection with the resultant service to Phillips, Columbia is concurrently filing a request under Part 157.212 of the Commission's regulations to establish a new point of delivery to Phillips in Fairview Township, Butler County, Pennsylvania to establish additional service for these proposed new contract levels within their existing franchise area.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Great Lakes Gas. Transmission Co.

[Docket No. CP88–8–000]

October 22, 1987.

Take notice that on October 5, 1987, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP88–8–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing abandonment of sales service to Michigan Gas Company (Michigan Gas) and transportation service for Michigan Gas for natural gas that would be purchased from TransCanada Pipelines Limited (TransCanada), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that it currently sells to Michigan Gas up to 7,300 Mcf per day of natural gas purchased from TransCanada under a contract dated October 9, 1970. Great Lakes states that Michigan Gas can obtain a better gas purchase arrangement directly from TransCanada. Michigan Gas, TransCanada, and Great Lakes have entered into an agreement dated September 2, 1987, that contains a transportation service agreement and a direct sale contract, it is stated. It is further stated that the rates in the transportation service agreement would be the transportation component of Applicant's resale rates for its central zone under its existing Rate Schedule S–1. Great Lakes indicates that the rates in the sales contract would be similar to those currently in effect for Michigan Gas.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Southern Natural Gas Co.

[Docket No. CP88–21–000]

October 22, 1987.

Take notice that on October 13, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP88–21–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing Southern to transport gas on behalf of The Water Works, Sewer and Gas Board of the City of Childersburg, Alabama (Childersburg), and the Gas Board of the City of Columbiana, Alabama (Columbiana), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport natural gas for Childersburg and Columbiana in accordance with the terms and conditions of transportation agreements between Childersburg and Southern dated September 15, 1987, (Childersburg agreement) and between Columbiana and Southern dated September 15, 1987, (Columbiana agreement). Southern states it has agreed to transport on an interruptible basis up to 7,700 MMBtu equivalent of gas per day for Childersburg and up to 2,500 MMBtu of gas per day for Columbiana. It is stated that Childersburg and Columbiana have arranged to purchase the gas from SNG Trading Inc. Southern requests that the Commission issue a limited-term certificate for a term expiring on October 31, 1988.

Southern states that the transportation agreements provide for Childersburg and Columbiana to cause natural gas to be delivered to Southern for transportation at various existing points on Southern's contiguous pipeline system in the Main Pass, Mississippi Canyon, and West Delta Areas, offshore Louisiana; Ascension, Lincoln, Orleans, Plaquemines, St. Martin and St Mary Parishes, Louisiana; Lawrence County, Mississippi; and Panola County, Texas. Southern states that it would redeliver to Childersburg at the Childersburg Meter Stations Nos. 1 and 2 located in Talladega County, Alabama, and to Columbiana at the Columbiana Meter Station in Shelby County, Alabama, an equivalent quantity of gas less 3.25 percent of such amount which shall be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses), less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas, and less Childersburg's or Columbiana's prorata share of any gas delivered for Childersburg's or Columbiana's account which is lost or vented for any reason.

Southern states that Childersburg and Columbiana have agreed to pay Southern each month the transportation rate of 64.9 cents per MMBtu of gas redelivered by Southern. Also, Southern would collect from Childersburg and Columbiana the applicable GRI surcharge of 1.52 centsa per Mcf, it is indicated.

Southern states that the transportation arrangements would enable Childersburg and Columbiana to diversity their natural gas supply sources and to obtain gas at competitive prices. Additionally, Southern advises that it would obtain take-or-pay relief on the gas Childersburg and Columbiana may obtain from their suppliers.

Comment date: November 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

[Docket No. CP88–26–000]

October 22, 1987.

Take notice that on October 16, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88–26–000 a request, pursuant to section 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Cities Service Oil and Gas Corporation (Cities), under the certificate issued in Docket No. CP87–118–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission open to public inspection.

Applicant proposes to transport natural gas on behalf of Cities from South Pass Block 77, offshore Louisiana, to an interconnection with Southern Natural Gas Company in Pugh, Lowndes County, Mississippi, pursuant to a transportation agreement dated July 30, 1987. Applicant also states that it would transport plant thermal reduction on behalf of Cities from South Pass Block 77 to the Yscloskey natural gas processing plant in Saint Bernard Parish, Louisiana.

The Applicant further states that the maximum daily and annual transportation quantities would be 12,000 dekatherms and 845,705 dekatherms, respectively. Applicant indicates that service under §284.223(a) of the Commission's Regulations commenced August 6, 1987, as reported in Docket No. ST87-4386.

Comment date: December 7, 1987, in accordance with Standard Paragraph G at the end of this notice.

8. Williams Natural Gas Co.

[Docket No. CP88-16-000]

October 22, 1987.

Take notice that on October 8, 1987, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP88-16-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by reclaim regulating, measuring and appurtenant facilities serving TAE Corporation (TAE) in Kay County, Oklahoma, and Frank Black (Black) in Sumner County, Kansas, and to abandon by reclaim regulating, measuring and appurtenant facilities and to abandon in place 2.7 miles of 3-inch pipeline and appurtenant facilities serving Western Alfalfa Corporation (Western Alfalfa) in Sumner County, Kansas, and the transportation of gas through said facilities, under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that TAE, Black and Western Alfalfa have requested that the facilities be reclaimed and that no other customers will be affected by abandoning the 3-inch pipeline serving Western Alfalfa. The total cost of the abandonments is $1,020 with an estimated salvage of $7,238, it is stated.

WNG submits that a copy of this request is being sent to the Kansas Corporation Commission and the Oklahoma Corporation Commission.

Comment date: December 7, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time requried herein, if the Commission on its own review of the matter finds that a grant of the certificate is requried by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24996 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-15-20-000 and RP87-109-000]

Algonquin Gas Transmission Co.; Proposed Change in FERC Gas Tariff

October 23, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 9, 1987, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, six (6) copies of the following tariff sheets:

Second Substitute Fourteenth Revised Sheet No. 204.

Second Substitute Fifteenth Revised Sheet No. 204.

Algonquin states that such tariff sheets are being filed to reflect in its Rate Schedule F-3 a $1.32/dekatherm reduction in the demand charge for firm transportation service by Transcontinental Gas Pipe Line Corporation ("Transco"), as set forth in Transco's filing in Docket No. RP87-94-000.

Algonquin proposes the effective dates of Second Substitute Fourteenth Revised Sheet No. 204 and Second Substitute Fifteenth Revised Sheet No. 204 to be September 1, 1987 and October 1, 1987, respectively.

Algonquin further proposes to flow through to its F-3 customers any refund it receives from Transco for the reduced demand charge related to the period preceding Algonquin's September 1, 1987 proposed effective date.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25091 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-113-001]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

October 23, 1987.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on October 13, 1987 tendered for filing the following proposed changes to its FERC Gas Tariff, to be effective October 1, 1987:

Third Revised Sheet No. 5A
Fourth Revised Sheet No. 31

Columbia Gulf states that the listed tariff sheets set forth the transportation rates and applicable tariff provisions required to place the rates into effect, applicable to the Annual Charge Adjustment, pursuant to the Commission's Regulations as set forth in Order No. 472, 472-A and 472-B issued May 29, 1987, June 17, 1987 and September 16, 1987, respectively.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 30, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25093 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-36-000]

Green Mountain Power Corp.; Notice of Filing

October 20, 1987.

Take notice that on October 15, 1987, Green Mountain Power Corporation (Company) tendered for filing a revision to its FERC Electric Tariff, First Revised Volume No. 1. This revision provides for a decrease in the Company's demand charge under the wholesale (Rate W) rate from $10.71 per kilowatt-month to $10.13 per kilowatt-month, to be made effective as of July 1, 1987.

The Company states that the rate reduction, which reflects a change in the federal corporate tax rate from 46% to 34%, was calculated using the formula mandated by the Commission in its Order in Docket No. RM87-4-000 and embodied in 18 CFR 35.27(c).

The Company states that copies of the filing have been served on the Village of Jacksonville, the Village of Readsboro, the New Hampshire Electric Cooperative, Inc., the Washington Electric Cooperative, Inc., the Vermont Electric Cooperative, Inc., the Vermont Public Service Board, the Vermont Public Service Department, and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 5, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25094 Filed 10-28-87; 8:45 am]

BILLING CODE 6817-01-M

[Docket Nos. TA88-1-7-001 and RP87-108-001]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 23, 1987.

Take notice that Southern Natural Gas Company (Southern) on October 14, 1987, tendered for filing Seventy-Fifth Revised Sheet No. 4A and Fifth Revised Sheet No. 4B to its FERC Gas Tariff, Sixth Revised Volume No. 1, with a proposed effective date of October 1, 1987, and November 1, 1987, respectively. Southern states that the tariff changes are being made in compliance with Ordering Paragraph (C) of the Commission's September 30, 1987 order in these proceedings and reflect the rates of United Gas Pipe Line Company, one of Southern's pipeline suppliers, in effect on October 1, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before October 30, 1987.

Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25092 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC88-3-000]

Southern Natural Gas Co.; Notice of Tariff Sheet Filings

October 23, 1987.

Take notice that on October 16, 1987, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama, 35202-2563, filed Revised Tariff Sheets to become effective November 15, 1987, to implement a new section 22 to the General Terms and Conditions of its FERC Gas Tariff for gas storage protection. Section 22 is proposed to be effective for the 1987-1988 storage withdrawal season only. The storage protection plan allows Applicant to limit or curtail its interruptible transportation services during the winter storage withdrawal season from November 15, 1987, through March 15, 1988 down to 650,000 Mcf per day to ensure that Applicant will be able to withdraw approximately 55 billion cubic feet of top storage gas from its underground storage fields by the end of the winter withdrawal period on March 15, 1988. Applicant states that it must withdraw 55 billion cubic feet of gas in order to provide sufficient underground storage capacity for the injection of certain volumes of gas, which must be purchase by Applicant and cannot be curtailed, during the summer injection period. Applicant's filing consists of: Original Sheet No. 45 N and Original Sheet No. 45 O.

Any person desiring to be heard or to make any protest with reference to said

tariff sheet filing should on or before November 3,1987, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25056 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

Docket No. CI88-17-000]

Tejas Hydrocarbons Co., Notice of Application

October 20, 1987.

Take notice that on October 9, 1987, Tejas Hydrocarbons Company (Tejas), of 333 Clay Street Suite 4545, Houston, Texas 77002, filed an application pursuant to section 7 of the Natural Gas Act (NGA),[1] and the Federal Energy Regulatory Commission's regulations promulgated thereunder for a one-year blanket certificate of public convenience and necessity with pregranted abandonment authority to permit the sale, and pregranted abandonment of the sale, of all NGPA categories of natural gas which remains subject to the Commission's NGA jurisdiction, including contractually uncommited natural gas reserves, for which producers have already received separate sales and abandonment authorizations under sections 7(b) and 7(c) of the NGA.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25095 Filed 10-28-87; 8:45 am]

BILLING CODE 6717-01-M

[1] 15 U.S.C. 717f (1982).

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59250A; FRL-3284-2]

Toxic and Hazardous Substances; Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of several applications for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA). EPA has designated these applications as TME-87-31, TME-87-32, TME-87-33, and TME-87-34. The test marketing conditions are described below.

EFFECTIVE DATE: October 21, 1987.

FOR FURTHER IONFORMATION CONTACT: Robert Wright, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202-382-7800).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke test marketing exemptions upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-87-31, TME-87-32, TME-87-33, and TME-87-34. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present any unreasonable risks of injury to health or the environment. Production volumes, use, and the number of customers must not exceed that specified in the applications. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-87-31, TME-87-32, TME-87-33, and TME-87-34. A bill of lading accompanying each shipment must state that the use of the substances is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantities of the TME substances produced and the date of manufacture.

2. The applicant must maintain records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substances.

T87-31

Dated of Receipt: September 14, 1987.

Notice of Receipt: September 29, 1987 (52 FR 36461).

Applicant: Dai Nippon Printing Company.

Chemical: (G) Indophenol derivative

Use: Dye for heat transfer recording material.

Production Volume: 100 kg.

Maxium Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.

Test Marketing Period: November 1987.

Risk Assessment: EPA identified a health concern for oncogenicity and lung toxicity based on an analogy to a similar substance. However, due to enclosure of the substance, EPA expects that the substance will have no significant human exposure. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

T87–32

Dated of Receipt: September 14, 1987.
Notice of Receipt: September 29, 1987 (52 FR 36461).
Applicant: Dai Nippon Printing Company.
Chemical: (G) Azomethine dye derivative
Use: Dye for heat transfer recording material.
Production Volume: 100 kg.
Maxium Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.
Test Marketing Period: November 1987.
Risk Assessment: EPA identified a health concern for oncogenicity and lung toxicity based on an analogy to a similar substance. However, due to enclosure of the substance, EPA expects that the substance will have no significant human exposure. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

T87–33

Date of Receipt: September 14, 1987.
Notice of Receipt: September 29, 1987 (52 FR 36461).
Applicant: Dai Nippon Printing Company.
Chemical: (G) Indophenol derivative.
Use: Dye for heat transfer recording material.
Production Volume: 100 kg.
Maximum Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.
Test Marketing Period: November 1987.
Risk Assessment: EPA indentified a health concern for oncogenicity and lung toxicity based on an analogy to a similiar substance. However, due to enclosure of the substance, EPA expects that the substance will have no significant human exposure. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

T87–34

Date of Receipt: September 14, 1987.
Notice of Receipt: September 29, 1987 (52 FR 36461).
Applicant: Dai Nippon Printing Company.
Chemical: (G) Azomethine dye derivative.
Use: Dye for heat transfer recording material.
Production Volume: 100 kg.
Maximum Exposure: 1,000 sheets containing the encapsulated TME substance may be distributed to 5,000 persons.
Test Marketing Period: November 1987.
Risk Assessment: EPA indentified no health concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health.

EPA identified an environmental concern for bioconcentration of the test marketing substance. However, because EPA expects no significant release of the substance to the environment, the test market substance will not present any unreasonable risk of injury to the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: October 21, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–25041 Filed 10–28–87; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–400008; FRL–3284–4]

Toxic Chemicals; Emergency Planning and Community Right-to-Know Program; Denial of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is denying a petition to delist ortho-phenylphenol from the list of toxic chemicals under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Section 313(e) allows any persons to petition the Agency to modify the list of toxic chemicals for which toxic release reporting is required.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M Street, SW., Washington, DC 20460, (202) 554–1411.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

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

B. Background

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

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

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

Section 313(e)(1) provides that any person may petition the Agency to add chemicals to or delete chemicals from the list of "toxic chemicals." EPA issued a statement of policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479). This statement provided guidance to potential petitioners regarding the recommended contents

and format for submitting petitions. The Agency must respond to petitions within 180 days either by initiating a rulemaking or publishing an explanation of why the petition is denied. If EPA fails to respond within 180 days, it is subject to citizen suits. In the event of a petition from a State governor to add a chemical, under section 313(e)(2), if EPA fails to act within 180 days, EPA must issue a final rule adding the chemical to the list. Therefore, EPA is under specific constraints to evaluate petitions and to issue a timely response.

State governors may petition the Agency to add chemicals on the basis of any one of the three toxicity criteria: Acute human health effects, chronic human health effects, or environmental toxicity. Other persons may petition only on the basis of acute or chronic human health effects.

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

II. Description of Petition

The Dow Chemical Company (Dow) submitted a petition to EPA to remove ortho-phenylphenol (OPP), Chemical Abstracts Service number 90–43–7, from the list of toxic chemicals. The Agency received the petition on April 27, 1987, and, under the statutory deadline, must respond by October 24, 1987. Dow submitted several citations of studies to support its petition.

The petitioner based its petition on the contention that OPP does not meet the health or environmental toxicity criteria in section 313(d)(2).

III. EPA'S Review of Ortho-Phenylphenol

A. Chemistry Profile

The Agency has gathered and verified the chemical and physical properties of OPP as available in the literature as well as actual and potential synthetic schemes for its production [Ref. 3].

B. Toxicity Evaluation

The health and environmental review included an assessment of metabolism/absorption, acute toxicity, carcinogenicity, mutagenicity, neurotoxicity, chronic toxicity, reproductive effects, developmental toxicity, and environmental toxicity. Readily available data on the health and environmental effects of OPP, including Dow's submitted data, Agency documents, and studies obtained from literature searches were reviewed. The Agency views OPP and its sodium salt (SOPP) as equivalent in its assessment of the health and environmental effects since they are expected to behave the same [Ref. 4].

1. *Absorption/Metabolism.* Studies have shown that OPP is readily absorbed from the gastrointestinal tract. Dermal absorption in humans has also been demonstrated. The primary route of metabolism of OPP is through conjugation with sulfate and glucuronic acid.

2. *Acute toxicity (human health).* OPP is only slightly acutely toxic as shown by rat and mouse oral acute toxicity values [Ref. 4].

3. *Carcinogenicity.* The primary health concern identified for OPP is carcinogenicity. There is enough animal evidence to suggest that OPP is a potential human carcinogen based on positive responses in two animal species, rats and mice.

OPP has been found to be a carcinogen in male rats, in both long-term (91 weeks) and short-term (13 weeks) studies. Long-term studies showed a variety of tumor development, primarily urinary bladder tumors, while the 13-week study showed the development of urinary bladder tumors only. It is significant that tumors were observed in such a short time. Although data for oncogenic potential in female rats are inconclusive, the presence of tumors in 2 of 10 female rats fed 4 percent SOPP also suggests a positive response.

One mouse study of the oncogenic activity of OPP was considered unacceptable due to its low dosage and short duration. However, in a 96-week feeding study of mice fed up to 2 percent OPP, statistically significant increases of liver hepatocellular carcinomas was observed and appeared to exhibit a dose-related response. The petitioner has postulated a threshold effect for carcinogenicity where positive response is only seen at high doses. However, current EPA policy is not to accept threshold arguments for carcinogens.

4. *Developmental/reproductive toxicity.* After reviewing the available literature, the EPA has concern that OPP and SOPP may exhibit developmental toxicity effects. Maternal and fetal toxicity (death) was observed in three separate studies. Since effects were seen at maternal toxicity levels, it is not clear whether maternal toxicity is the cause for the developmental effects. A reproductive effects study is currently under way as a result of data call in under FIFRA. Results are not yet available.

5. *Mutagenicity.* Evaluation of the available mutagencicity data using the weight of evidence approach suggest that the data are insufficient to establish that OPP can cause heritable gene or chromosome mutations in humans. Test results are predominantly negative, and EPA does not consider the few indications of a positive response to be sufficient evidence.

6. *Immunotoxicity.* Indications of effects on the immune system have been seen in some animal studies using OPP; however, no conclusions can be reached. No immunoassays have been conducted.

7. *Neurotoxicity.* There are no readily available data on neurotoxic effects of OPP. There were no indications of neurotoxic effects in chronic studies.

8. *Other chronic health effects.* Sub-chronic and chronic administration of OPP and SOPP has resulted in significant renal effects as well as decreased survival rates in test animals; however, renal toxicity is only seen at high dose levels.

9. *Ecotoxicity.* EPA's evaluation concluded that OPP is of moderate ecotoxicity concern based on it aquatic acute toxicity and its persistance. OPP has been found to have aquatic toxicity at concentrations ranging from 25 parts per million (ppm) for green algae to 2.7 ppm for daphnids. Laboratory test data using river water have shown that the primary biodegradation of OPP is 50 to 65 percent complete in 16 days. Complete (ultimate) biodegradation is estimated at 2 to 4 weeks in river water.

C. Use, Release, and Exposure Analysis

1. *Production.* The Agency has confirmed that Dow is currently the sole producer of OPP in the U.S., marketing OPP under the tradename of Dowicide 1. Production takes place exclusively at a plant in Midland, Michigan. The reported demand for OPP in 1983 was listed at 2.2. million pounds and the estimated demand for OPP in 1988 is 2.4 million pounds. Some OPP is imported into the U.S. by Mobay Corporation from Bayer AG. It is estimated that approximately 100,000 pounds (or about 5 percent of the total U.S. demand) of OPP was imported in 1983.

The economic analysis shows that OPP is primarily used as an antimicrobial agent in industrial, institutional, and household disinfectants and sanitizers (69 percent of the production volume) and as an intermediate for the preparation of SOPP (10 to 15 percent of the production volume). Other important uses of OPP include as a biocide in metalworking fluids, as a preservative in starch-based

adhesives, and as a post-harvest preservative in fruits and vegetables [Ref. 5]

2. *Exposure and release.* Dow provided EPA with detailed confidential information on its OPP manufacturing operations. Evaluation of this information, as well as EPA's best estimates, indicates that ambient exposure due to releases from manufacture of OPP is low [Refs. 1, 2].

While little data exist on processing operations, worst-case human exposures are anticipated to result mostly from releases to drinking water, where exposures have been estimated to be up to 2 mg/yr. Using worst-case estimates, releases, releases from clean-up operations at the processing facility could result in surface water concentrations of up to 60 parts per billion (ppb). These levels would be of moderate concern for ecotoxicity.

Information regarding the handling and disposal of OPP by users was not available. The Agency estimated exposures and releases for the major uses (institutional disinfectants, metalworking fluids, and starch-based adhesives) of OPP using worst-case scenarios. Moderate aquatic exposures to OPP could result from use as an institutional disinfectant. Surface water concentrations resulting from this use have been estimated to be as high as 30 ppb. There is greater concern for release of OPP from its use in metalworking fluids. Drinking water exposures to OPP as high as 20 mg/yr have been estimated, and a worst-case surface water concentration of 20 ppm has been estimated [Refs. 1, 2].

D. Summary of Technical Review

The Agency's review of toxicity centers on three concerns. EPA has concern for the potential carcinogenicity of OPP based on positive results in multiple species and tumor development in a short time. DOW postulates that the carcinogenic effect is threshold related and indicates that the effects which are observed only occur at high doses. EPA does not consider that the present information is sufficient to support the conclusion that the carcinogenic effect is threshold related.

The EPA has concern for development toxicity. OPP is developmentally toxic at maternally toxic levels, but it cannot be determined whether maternal toxicity is the cause of the developmental toxicity.

The EPA has moderate concern for aquatic toxicity resulting from acute toxicity and the level of persistence of OPP.

Due to a lack of monitoring data, exposures were estimated for processors and users of OPP. Levels acutely toxic to aquatic life could be reached from release of OPP to water from the metalworking fluid industry.

Human exposure from releases of OPP to drinking water are estimated possibly to be as high as 20 mg/yr from its use in the metalworking fluid industry, and as high as 2 mg/yr in processing operations.

IV. Explanation of Denial

A. General Policy

EPA has broad discretion in determining whether to grant or deny petitions under section 313. When granting a petition, the Agency has an obligation to show how the granting of the petition fulfills the statutory criteria the Agency is to use in section 313(d) when modifying the list of toxic chemicals. When denying a petition, the Agency must publish an explanation of why the petition is denied. In the Joint Conference Committee Report, the conferees made clear that EPA may conduct risk assessments or site-specific analyses in making listing determinations under section 313(d). EPA has concluded that potential exposure must be a consideration in making decisions to revise the chemicals to the list. In all evaluations, EPA has discretion to consider a variety of factors to determine whether it is appropriate to add chemicals to the list, albeit limited in the case of petitions under section 313(e) by the 180-day period.

B. Reasons for Denial

The EPA is denying the petition submitted by Dow to remove OPP from the list of chemicals subject to toxic release inventory reporting. Given the available data on Opp, EPA believes that there is enough evidence on potential carcinogenicity, developmental toxicity, and environmental toxicity/persistence to warrant keeping OPP on the list of chemicals. In addition, there is little data on release and exposure resulting from the processing, and use of OPP. Finally, the chemical is subject to a data call-in (as an active pesticide ingredient), under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The studies asked for include: (1) Chronic feeding; (2) teratology; and, (3) reproductive.

In sum, EPA's major concerns are for oncogenicity and environmental toxicity/persistence. Coupled with the concern for developmental toxicity and the lack of exposure data, the Agency has concluded that OPP should not be removed from the list of chemicals subject to reporting under section 313 of Title III of SARA.

V. Public Record

The record supporting this decision is contained in docket number OPTS-400008. All documents, including the index of the docket, but excluding documents containing confidential business information, are available to the public in the OTS Reading Room from 8 a.m. to 4 p.m., Monday thru Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Room NE-GO04, 401 M St., SW., Washington, DC 20460.

(1) Delpire, L. SARA Title III Section 313: Petition to Delist ortho-phenylphenol (OPP)—Exposure Assessment. USEPA.

(2) Heath, G. Engineering Report. Petition Review SARA Title III Section 313 Release Analysis: Ortho-phenylphenol. USEPA. 1987.

(3) Houk, J. Title III Section 313: Chemistry Report on ortho-phenylphenol (OPP). USEPA. 1987.

(4) Jones, R. Title III Section 313: Hazard Assessment of ortho-phenylphenol. USEPA. 1987.

(5) Long, J. Economic Report on Production Uses, Substitutes and Cost Analysis ortho-phenylphenol (OPP). USEPA. 1987.

(6) Environmental Criteria and Assessment Office. Reportable Quantity Document for 2-Phenylphenol. USEPA. March 1985.

(7) Environmental Criteria and Assessment Office. Health and Environmental Effects Profile for 2-Phenylphenol. USEPA. September 1984.

Therefore, EPA is denying the petition to delist ortho-phenylphenol under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986

Dated: October 22, 1987.

Victor J. Kimm,

Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 87-25040 Filed 10-28-87; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 879]

Authority Delegations; Authority of Officers and Employees of the Farm Credit Administration to Act as Chairman in the Event of a National Emergency and Other Related Matters (Revocation of FCA Order No. 802)

AGENCY: Farm Credit Administration.

ACTION: Notice.

1. (a) Pursuant to Executive Order 11490 and implementing authorities, in the event of a national emergency, if the Chairman of the Farm Credit Administration (FCA) is not able to perform the duties of the office for any reason, the officer of the FCA who is highest on the following list and who is

available to act, is hereby authorized to exercise and perform all the functions, power, authority and duties of the Office of Chairman:

(1) Member of the Board of the Chairman's Party;

(2) Member of the Board of the Minority Party;

(3) Executive Assistant to the Chairman;

(4) Secretary to the Board; or

(5) Director, Office of Congressional and Public Affairs.

(b) In the event of an enemy attack on the continental United States, all Field Office Chiefs, including any Acting Chiefs, are authorized in their respective regions to perform any function of the Chairman, whether or not otherwise delegated, which is essential to carry out responsibilities otherwise assigned to them. The respective officer will be notified when they are to cease exercising the authority delegated in this paragraph.

2. The temporary headquarters for operations of the FCA shall be at the Bloomington, Minnesota Field Office or, if that city is attacked and rendered unavailable, at such other relocation point as may be designated by an Acting Chairman.

3. An Acting Chairman may establish such branch office or offices of the FCA as are necessary to coordinate the operations of the FCA with those of other Government agencies.

4. This Order shall be effective immediately and supersedes prior delegations and authorizations of the Governor of the FCA dated March 1, 1977. This Order shall remain in effect until amended, superseded, or revoked.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 87-25097 Filed 10-28-87; 8:45 am]

BILLING CODE 6705-01-M

[Farm Credit Administration Order No. 881]

Designation of Contracting Officer (Revocation of FCA Order No. 868)

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Chairman of the Farm Credit Administration issued Order No. 881 designating certain employees to act as contracting officers. The text of the Order is as follows:

1. The Director, Office of Administration, is hereby designated to act: (a) As Contracting Officer of the Farm Credit Administration with unlimited authority to execute all contracts, agreements, and memoranda of understanding of the Farm Credit Administration, to exercise related power of the Farm Credit Administration under the Farm Credit Act of 1971, as amended, and under 31 U.S.C. 1535, including the making of related determinations and decisions, and to administer all contracts, agreements, and memoranda of understanding of the Farm Credit Administration; and (b) as the senior procurement executive pursuant to the requirements of the Office of Federal Procurement Policy Act of 1974, as amended.

2. The Chief, Administrative Services Division, and the Chief, Contracting and Procurement Branch, Office of Administration, are hereby authorized to act as Contracting Officers of the Farm Credit Administration with authority to execute all contracts, agreements, and memoranda of understanding of the Farm Credit Administration not in excess of $50,000 except those involving other Federal Government agencies, including the making of related determinations and decisions and to administer all contracts, agreements, and memoranda of understanding of the Farm Credit Administration, except as the Director, Office of Administration may otherwise provide.

3. The Chief, Administrative Services Division may delegate to Ordering Officers authority to negotiate and sign orders for small purchases not in excess of $25,000.

4. The Chief, Budget and Accounting Division, Office of Administration, is hereby authorized to act as signatory authority for the Farm Credit Administration with authority to execute all agreements and memoranda of understanding between the Farm Credit Administration and other Federal Government agencies, including the making of related determinations and decisions and to administer all such agreements and memoranda of understanding of the Farm Credit Administration, except as the Director, Office of Administration, may otherwise provide.

5. All actions taken pursuant to this Order shall be in conformity with guidelines approved by the Chairman and with all applicable requirements of law, executive orders, and regulations.

6. Farm Credit Administration Order No. 868, dated September 29, 1986, is hereby revoked.

7. The provisions of this Order shall be effective immediately and shall remain in full force and effect until amended or revoked by subsequent order.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 87-25098 Filed 10-28-87; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council Meeting

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Federal Savings and Loan Advisory Council. Notice of the meeting is required under the Federal Advisory Committee Act.

DATES: November 18, 1987, 9:00 a.m.–4:30 p.m.; November 19, 1987, 9:00 a.m.–11:30 a.m.

ADDRESS: Federal Home Loan Bank Board, Board Room, 6th Floor, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT:

John M. Buckley, Jr. (202/377-6577)
Debra J. Ahearn (202/377-6924)

SUPPLEMENTARY INFORMATION:

Proposed agenda:

1. FSLAC Operating Procedures
2. Enhancing the Thrift Charter
3. Federal Reserve Board's Proposal to allow commercial banks to acquire healthy S&Ls

No. 14, October 26, 1987.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-25099 Filed 10-28-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0320]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the increased use of di-*tert*-butylphenyl phosphonite condensation product with

biphenyl as an antioxidant for low density polyethylene and olefin copolymers intended to contact food.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4018) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the increased use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant for low density polyethylene and olefin copolymers intended to contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 20, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–24991 Filed 10–28–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87F–0327]

The Dow Chemical Co.; Filing of Food Additive Peition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additives regulations be amended to provide for the safe use of ethylene-acrylic acid-carbon monoxide copolymer as an adhesive in multilayer structures intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4037) has been filed by The Dow Chemical Co., 1803 Building, Door 7, Midland, MI 48674, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of ethylene-acrylic acid-carbon monoxide copolymer as an adhesive in multilayer structures intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 20, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–24992 Filed 10–28–87; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Ophthalmic Devices Panel

Date, time, and place. November 17, 1987, 1:30 p.m., Conference Rm. A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. This meeting will be held by a telephone conference call. A speaker telephone will be provided in the conference room to allow public participation in the meeting. Open public hearing, 1:30 p.m. to 1:45 p.m.; open committee discussion, 1:45 p.m. to 4:30 p.m. Daniel W.C. Brown, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7320.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 10, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of the proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues relating to approvals of premarket applications for contact lenses. The committee may also discuss general issues relating to other ophthalmic devices.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last the long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 22, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–24990 Filed 10–28–87; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicaid Program, Hearing to Reconsider Disapproval of a Pennsylvania State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on December 17, 1987 in Philadelphia, Pennsylvania to reconsider our decision to partially disapprove Pennsylvania State Plan Amendment 86–14.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk November 13, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to partially disapprove Pennsylvania State Plan Amendment 86–14.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideratin of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether portions of Pennsylvania SPA 86–14 violate section 1902(a)(10) (A) and (C) of the Social Security Act and regulations at 42 CFR 435.711 and 435.721.

Pennsylvania submitted SPA 86–14 which updates the Pennsylvania Medicaid State plan with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 and the Deficit Reduction Act of 1984.

HCFA disapproved Attachment to Attachment 2.6–A, page 13 of SPA 86–14 because it determined that the page contains financial eligibility rules that are in some respects more liberal and in other respects more restrictive than permitted by law and regulations. On August 18, 1987 Pub. L. 100–93 amended the moratorium established by section 2373(c) of the Deficit Reduction Act of 1984. Among other things, the amendment makes clear that the moratorium affords protection to State plan amendments (whether or not approved) as well as to existing approved State plans. The moratorium is limited to the medically needy and the optional categorically needy groups described in sections 1902(a)(10)(A)(ii)(IV), (V), and (VI). It also applies only to provisions which do not make *any individual* ineligible who would be eligible except for that provision. Thus, provisions which are more restrictive in any respect than the cash assistance rules are not protected. However, the moratorium does not preclude HHS from disapproving State plan submittals which do not satisfy the requirements of the Medicaid statute, but prevents HHS from penalizing States for adhering to the terms of the material protected by the moratorium. Thus, although certain portions of Pennsylvania's amendment may be covered under the amended moratorium, the disapproval of these provisions remains proper. The State may, however, implement those provisions covered by the moratorium during the period in which the moratorium remains in effect. The moratorium does not relieve the State of its obligations to adhere to the income caps established by section 1903(f) of the Social Security Act.

The following describes each provision of Attachment to Attachment 2.6–A, page 13.

A. Provisions proposed for AFDC-related individuals

1. The State indicates it does not apply the AFDC treatment of lump-sum income policy in determining eligibility for medical assistance. Under AFDC when the family's income exceeds the need standard because of receipt of nonrecurring lump-sum income the family will be ineligible for aid for the full number of months derived by dividing the sum of the lump-sum income and any other income by the applicable monthly need standard. (See 45 CFR 233.20(a)(3)(ii)(F).) HCFA has determined that Pennsylvania's proposal to not apply AFDC lump-sum rules is more liberal than AFDC policy because the lump sum payment is counted as income only in the month received which results in potentially no more than 1 month of ineligibility rather than up to several months as may be the case under the AFDC rule. Additionally,

HCFA believes the Pennsylvania proposal to not apply the AFDC lump-sum income policy can have the result of treating families in a more restrictive manner, depending on the individual family circumstances. For example, application of the AFDC lump-sum policy may still permit families with low recurring monthly income to establish medically needy eligibility through spenddown. However, as Pennsylvania proposes to count the entire lump-sum amount in 1 month (or budget period), the entire lump-sum amount could raise the family's income (and thus the family's spenddown liability) so far above the monthly need standard that the family would be unable to spenddown enough to attain medically needy eligibility. Therefore, HCFA has determined it is in violation of section 1902(a)(10)(A) and regulations at 42 CFR 435.711 with regard to categorically needy and section 1902(a)(10)(C) with regard to the medically needy. Because the proposed treatment of lump-sum income could result in some individuals being made ineligible, who would otherwise be eligible for Medicaid, we do not believe it is protected under the amended moratorium provision.

2. The State indicates medically needy individuals are permitted a deduction (disregard) for actual amounts for work and personal expenses. Under AFDC a $75 work expense disregard is applied. (See 45 CFR 233.90(a)(11)(i)(B).) HCFA has determined the Pennsylvania proposal is more liberal than AFDC policy because it permits disregard of actual amounts for work and personal expenses rather than limit the disregard to $75 as required under AFDC. HCFA believes the Pennsylvania proposal is also more restrictive than AFDC policy. In cases where the individual's actual work expenses are less than $75, Pennsylvania would disregard the actual amount rather than apply the required $75 disregard. HCFA has determined the State's proposal violates section 1902(a)(10)(C)(i)(III) because the work expense disregard applies to the medically needy is not the same as the disregard applied under the AFDC program. Because the use of the lesser of actual work expenses or $75 as a disregard from income could result in some individuals being made ineligible who would otherwise be eligible for Medicaid, we do not believe it is protected under the amended moratorium provision.

3. The State indicates the AFDC gross income test is not applied for categorically needy. Under AFDC no assistance unit is eligible for aid in any month in which the unit's (family's) income exceeds 185 percent of the State's need standard. (See 45 CFR 233.20(a)(3)(xiii).) Certain categorically needy groups under Medicaid are defined as individuals who would be eligible for payments under AFDC. (See 1902(a)(10)(A).) Since the 185 percent test is a necessary component of determining eligibility for an AFDC payment, it mut also apply to categorically needy individuals who are eligible for Medicaid by virtue of being individuals "who would be eligible for an AFDC payment." HCFA has determined Pennsylvania's proposal to not apply the 185 percent gross income test to categorically needy individuals is more liberal than AFDC policy because under Pennsylvania's proposal eligibility could be established even though the family's income exceeds the 185 percent amount. Therefore, HCFA has determined it violates section 1902(a)(10)(A)(ii) of the Act and regulations at 42 CFR 435.711. Because the failure to use the 185 percent gross income rule applies only to categorically needy groups not covered under the revised moratorium, we do not believe it is protected under the amended moratorium provision.

4. The State indicates the medically needy will be allowed a deduction from self-employment income for depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payment on principal of loans for capital assets or durable goods. Under AFDC, earned income from self-employment means the total profit resulting from the comparison of gross receipts with the "business expenses" i.e., expenses directly related to producing the goods or services and without which the goods or services could not be produced. However, such items as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payment on the principal of loans for capital assets or durable goods are not business expenses (45 CFR 233.20(a)(6)(v)(B)). HCFA has determined the Pennsylvania proposal which disregards amounts defined as business expenses is more liberal than AFDC which does not include such expenses as business expenses that may be deducted in determining AFDC eligibility. HCFA has determined this more liberal proposal violates section 1902(a)(10)(C)(i)(III) of the Act which requires States in determining medically needy eligibility of AFDC-related individuals to apply the financial methods of the AFDC program. This provision may be protected by the revised moratorium for those groups covered under the moratorium, to the extent that the State establishes a mechanism to ensure that it does not submit claims for Federal financial participation for Medicaid services provided to individuals whose family income exceed the cap established by section 1903(f) of the Act.

B. Provisions proposed for aged, blind, or disabled individuals

1. The State's proposed plan provides that SSI support and maintenance in-kind rules are not being applied to categorically and medically needy individuals. Under SSI one type of unearned income which is counted in determining eligibility for an SSI payment is in-kind support and maintenance (food, clothing, and shelter). The way SSI values (i.e., the amount it counts) in-kind support depends on the individual's living arrangement. (See 20 CFR 416.1120 through 416.1124.) HCFA has determined the Pennsylvania proposal which does not count support and maintenance in-kind as income is more liberal, therefore, than SSI criteria which require that in-kind support and maintenance count as income in determining eligibility. HCFA has determined the proposed provision violates section 1902(a)(10) (A) and (C) of the Act and regulations at 42 CFR 435.721 because it is more liberal than SSI rules. This provision may be protected by the revised moratorium for those groups covered under the moratorium, to the extent that the State establishes a mechanism to ensure that it does not submit claims for Federal financial participation for Medicaid services provided to individuals whose family incomes exceed the cap established by section 1902(f) of the Act.

2. The State's proposed plan indicates that the SSI life insurance provisions are not being applied to categorically and medically needy individuals. Rather, Pennsylvania disregards the cash value of life insurance if the face value of all policies on the individual does not exceed $1,500. Additionally, where the face value of all policies on the individual exceeds $1,500, Pennsylvania counts the cash value over $1,000. (Effectively, where the face value exceeds $1,500 Pennsylvania disregards the first $1,000 of cash value of the policies.) HCFA believes this policy is more liberal than SSI policy which requires that if the face value of all life insurance policies on the individual exceeds $1,500, all cash value of the policies will be counted in determining eligibility. (See 20 CFR 416.1230.) HCFA

has determined the Pennsylvania proposal violates section 1902(a)(10) (A) and (C) of the Act and regulations at 42 CFR 435.721. This provision may be protected under the revised moratorium for those groups covered under the moratorium.

In addition, Pennsylvania believes that the proposed State plan amendment is protected by the Deficit Reduction Act of 1984 and by the recently enacted Medicare and Medicaid Patient and Program Protection Act of 1987.

The notice to Pennsylvania announcing an administrative hearing to reconsider our partial disapproval of its State plan amendment reads as follows:

Mr. John F. White, Jr.,
Secretary of Public Welfare,
Harrisburg, PA 17105.

Dear Mr. White: This is to advise you that your request for reconsideration of the decision to disapprove Pennsylvania State Plan Amendment 86–14 was received on September 25, 1987.

Pennsylvania SPA 86–14 updates your Medicaid State plan with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 and the Deficit Reduction Act of 1984. You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations.

There are two issues in this matter. The first issue concerns the need to determine whether section 1902(a)(10) (A) and (C) of the Social Security Act and Federal regulations at 42 CFR 435.711 and 435.721 permit the use of financial eligibility rules like those proposed by Pennsylvania which are more liberal and more restrictive than the rules applied under the appropriate cash assistance programs. The second issue is whether Pennsylvania's proposed rules are protected by the moratorium provisions of the Deficit Reduction Act of 1984 and as amended by the recently enacted Medicare and Medicaid Patient and Program Protection Act of 1987.

In view of the amendment to the moratorium, several of the disapproved provisions of the State plan amendment may now qualify for protection under the moratorium. However, the moratorium does not make these provisions approvable parts of the State plan, although Pennsylvania would be protected from HHS sanction for complying with provisions covered by the moratorium during the moratorium period. Moreover, the moratorium does not relieve the State of its obligation to comply with the caps established under section 1903(f) of the Social Security Act. The **Federal Register** notice announcing this hearing identifies those provisions which may be subject to protection under the moratorium. Please contact the regional office for additional information.

I am scheduling a hearing on your request to be held on December 17, 1987 at 10:00 a.m. in the 4th Floor Conference Room, 3535 Market Street, Philadelphia, Pennsylvania. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely,

William L. Roper,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: October 22, 1987.

William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 87–25064 Filed 10–28–87; 8:45 am]
BILLING CODE 4120–03–M

National Institutes of Health

Division of Research Resources; Biomedical Research Technology Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Research Technology Review Committee (BRTRC), Division of Research Resources (DRR), November 9, 1987, Building 31, Conference Room 9, C Wing, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on November 9, from 9:00 a.m. to 11:30 a.m., during which time there will be comments by the Director, DRR; report of the Director, BRTP; and a discussion of "Opportunities and Challenges in Distributed Computing." 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 from approximately 11:30 a.m. on November 9 until 5:00 p.m. for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B–10, National Institutes of Health, Bethesda, MD 20892, (301) 496–5545, will provide a summary of the meeting and a roster of committee members upon request. Dr. Caroline Holloway, Executive Secretary, Biomedical Research Technology Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B–41, National Institutes of Health, Bethesda, MD 20892, (301) 496–5411, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health.)

Dated: October 16, 1987.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 87–25019 Filed 10–28–87; 8:45 am]
BILLING CODE 4140–01–M

National Cancer Institute; Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, December 3–4, 1987, at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

This meeting will be open to the public on December 3 from 8:30 a.m. to 9 a.m. for reports by the Executive Secretary and Chairman of the Cancer Clinical Investigation Review Committee. 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 December 3 from approximately 9 a.m. until recess and on December 4 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and cooperative agreements. These grant applications and cooperative agreements and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with these 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 summaries of the meeting and rosters of committee members upon request.

Dr. Mary Ann Sestili, Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 836, National Institutes of Health, Bethesda, Maryland 20892, (301/496-7481) will provide substantive program information upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-25021 Filed 10-28-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Cancer Preclinical Program Project Review Committee; Meeting

Purusant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Preclinical Program Project Review Committee, National Cancer Institute, National Institutes of Health, December 3, 1987, Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on December 3 from 8:30 a.m. to 8:45 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with 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 December 3 from 8:45 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 individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Edwin M. Bartos, Executive Secretary, Cancer Preclinical Program Project Review Committee, National Cancer Institute, Westwood Building, Room 826, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7565) will furnish substantive program information, upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-25022 Filed 10-28-87; 8:45 am]

BILLING CODE 4140-01-M

National Eye Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, November 19-20, 1987, Building 31, NEI Conference Room 6A35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 19 from 8:30 a.m. until approximately 4 p.m. for general remarks by the Institute's Scientific Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 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 November 19 from approximately 4 p.m. until recess and on November 20 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Laboratory of Mechanisms of Ocular Diseases. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Lois DeNinno, Acting Committee Management Officer, National Eye Institute, Building 31, Room 6A51, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5983, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-25020 Filed 10-28-87; 8:45 am]

BILLING CODE 4140-01-M

National Eye Institute; Vision Research Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Review Committee, National Eye Institute, November 19-20, 1987, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 19 from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with 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 from 9:30 a.m. on November 19 until recess and on November 20 from 8:30 a.m. until 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 individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lois DeNinno, Acting Committee Management Officer, National Eye Institute, Building 31, Room 6A-03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5983, will provide summaries of the meeting, rosters of committee members, and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-25025 Filed 10-28-87; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinicial Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, on December 7-8, 1987, in Building 31, Conference Room 4, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on December 7 from 9:00 a.m. to recess and from 8:30 a.m. to

adjournment on December 8 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Lawrence Friedman, Acting Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 20, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25024 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, December 4, 1987, in Building 31, Room 2A52.

This meeting will be open to the public from 9:00 a.m. to 12 noon on December 4 for the review of the Intramural Research Program and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provision set forth in sec. 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 December 4 from 1:00 p.m. to adjourment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members, and substantive program information upon request.

Dated: October 16, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25023 Filed 10–28–87; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–08–4322–02]

Lewistown, MT, District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management—Lewistown District, Interior.

ACTION: Notice of Grazing Advisory Board meeting.

SUMMARY: The Lewistown District Grazing Advisory Board will meet November 19, 1987. The agenda will be:

10:00 a.m.—Introduction and Welcome
10:15 a.m.—Election of Officers
10:30 a.m.—Range Improvement Status
11:15 a.m.—Unauthorized Use
1:00 p.m.—Prairie Dogs
1:15 p.m.—Resource Management Plan/ Missouri River Management Plan
1:45 p.m.—Monitoring Program and Riparian Management
2:15 p.m.—Exchange Program
2:30 p.m.—CRP Program Relating to Weeds, Grasshoppers, and Fencing
3:00 p.m.—Date, Time, Place for next meeting. Adjourn.

Public comment will be sought at the end of each agenda item.

Date: November 19, 1987, 10 a.m. to 3 p.m.

Location: Yugo Inn, 211 East Main, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Wayne Zinne, District Manager, Bureau of Land Management, 80 Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown District Grazing Advisory Board is authorized under the *Federal Advisory Committee Act, 5 U.S.C. Appendix 1.* The board advises the Lewistown District Manager concerning the development of allotment management plans and the utilization of range betterment funds.

Wayne Zinne,

District Manager.

Date October 21, 1987.

[FR Doc. 87–25003 Filed 10–28–87; 8:45 am]

BILLING CODE 43410–DN–M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48786–AG has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 19 S., R. 10 E.,
Sec. 20 NE¼NW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accuring from September 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48786–AG as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective September 1, 1986, subject to the terms and conditions cited above.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

Dated: October 21, 1987.

[FR Doc. 87–25016 Filed 10–28–87; 8:45 am]

BILLING CODE 4310–JA–M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48573–CE has been received covering the following lands:

Copper River Meridian, Alaska

T. 11 N., R. 4 W.,
Sec. 15 SW¼NW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from May 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48573–CE as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C.

188), the Bureau of Land Management is proposing to reinstate the lease, effective May 1, 1987, subject to the terms and conditions cited above.

Dated: October 23, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87-25011 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-JA-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48686-H has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 22 S., R. 6 E.,
Sec. 4 W½SE¼.
(80 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from July 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48686-H as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective July 1, 1986, subject to the terms and conditions cited above.

Dated: October 23, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87-25012 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-JA-M

[NM-943-08-4111-13; OK NM 64981]

Proposed Reinstatement of Termination Oil and Gas Lease; New Mexico

UNITED STATES DEPARTMENT OF THE INTERIOR, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of 43 CFR 3108.2-3, Cities Service Oil and Gas Corporation, petitioned for reinstatement of oil and gas lease OK NM 64981 covering the following described lands located in Cimarron County, Oklahoma:

T. 5 N., R. 2 E., I.M., Oklahoma,
Sec. 34, NE¼SE¼.
Containing 40.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, May 1, 1987.

Dated: October 19, 1987.

Tessie R. Anchondo,

Chief, Adjudication Section.

[FR Doc. 87-25102 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-FB-M

[NV-930-07-4212-11; N-46544]

Realty Action; Battle Mountain District, Tonopah Resource Area; Nye County, NV

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Realty action; classification of Federal lands for lease or sale for public purposes in Nye County, Nevada.

SUMMARY: In response to an application from the State of Nevada for a prison conservation camp site, the following described lands have been examined and found to be suitable for lease or sale under the authority of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, et. seq.):

Mount Diablo Meridian

T. 4 N., R. 43 E.,
Section 25, NE¼SW¼.

A parcel of land containing 40 acres.

These lands are not required for any Federal purpose. Disposal is consistent with the Bureau's planning for this area and would be in the public interest.

The lands described in this notice meet the criteria for classification set forth in 43 CFR 2410.1-2 and 2430.4. They will not be offered for lease or sale until the classification becomes effective.

A patent, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 94).

2. All mineral deposits in the lands so patented, and to the United States, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law.

And would be subject to:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official land records at the time of patent issuance.

3. Any other reservations the Authorized Officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this Notice in the **Federal Register** the above described public lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws, except as to applications under the mineral leasing laws and application under the Recreation and Public Purpose Act. The segregative effect will end upon issuance and of the lease or patent or 18 months from the date of publication of this Notice in the **Federal Register** whichever occurs first.

For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, P.O. Box 1420, Battle Mountain, NV 89820. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

October 15, 1987.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 87-25017 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-07-4212-14; N-46236]

Realty Action; Battle Mountain District, Tonopah Resource Area; Nye County; NV

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Realty action; noncompetitive sale of Federal lands in Nye County, Nevada.

SUMMARY: The following described Federal lands have been examined and found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 at not less than the appraised fair market value.

Mount Diablo Meridian, Nevada

T. 11 N., R. 44 E.,

Section 15, SW¼NW¼SE¼SW¼, SW¼SE¼SW¼, W½SW¼SE¼SW¼, SE¼SE¼SE¼SW¼.

A parcel of land containing 20 acres.

The lands will be offered for sale without completion to Charles H. Coleman, the adjacent landowner, who plans to continue their present use as wildlife habitat and livestock grazing land. The Barker Creek Ranch house is located on these lands. Failure to submit purchase money within the timeframe specified by the Authorized Officer shall result in cancellation of the sale.

The sale is consistent with the Bureau's planning system. The lands are not needed for any resource program. No conflicts with state or local plans are present. The grazing lessee has been given the two-year notification prescribed in section 402(g) of the Federal Land Policy and Management Act of 1976.

These lands may be in a flood prone area.

Minimum price for this parcel will be fair market value which will be determined by an appraisal and which will be made available prior to the sale. Under no circumstances will this parcel be sold sooner than 60 days after publication of this Notice.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals.

A more detailed description of the mineral reservation which will be incorporated in the patent document is available for review at the Battle Mountain District Office. The sale will be subject to prior existing rights.

Segregation

Upon publication of this Notice in the **Federal Register** the above-described Federal lands will be segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute or from applications under the mineral leasing laws. The segregative effect will end upon issuance of the patent or 270 days from the date of publication of this Notice in the **Federal Register**, whichever occurs first.

Comments

For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1420, Battle Mountain, NV 89820. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Date signed: October 15, 1987.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 87-25018 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Endangered Species Permit Issued for the Months of July, August, September, 1987

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, telephone (703/235-1903) between the hours of 7:45 a.m. to 4:15 p.m. weekdays.

July

Cincinnati Zoo
717905 7-01-87
Fort Worth Zoological Park
714617 7-01-87
U.S. Fish & Wildlife Region 3
697830 7-07-87
San Diego Zoological Society
720148 7-15-87
National Zoological Park
719357 7-29-87
Johnson, Gary
717614 7-27-87
Int'l Succulent Institute
719046 7-29-87

August

San Diego Zoological Society
719590 8-10-87
San Diego Zoological Society
719372 8-11-87
Snowdon, Charles T.
719234 8-11-87
Fish & Wildlife Service
717318 8-12-87
Audubon Zoo Garden
718810 8-13-87
Lebolt, John M.
719810 8-14-87
Kranik, Andrew D.
709317 8-14-87
Johnson, Gary
719814 8-14-87
Honolulu Zoo
719813 8-14-87
International Animal Exchange
719434 8-17-87
Searle, William L.
719803 8-17-87
Alwarad, Arnold E.
715117 8-18-87

September

San Diego Zoological Society
720167 9-01-87
Headings, Jr., Donald M.
720056 9-03-87
Asper, Paul W.
719589 9-08-87
International Animal Exchange
720002 9-08-87
International Animal Exchange
719815 9-08-87
Cincinnati Zoo
720022 9-09-87
Karesh, William B.
721552 9-09-87
Marcus, Steven
720006 9-15-87
Fresno Zoo
720917 9-23-87
Ferguson, Cecil A.
720929 9-23-87
San Diego Zoological Society
720841 9-23-87
Oxton Kennels & Exotics
718405 9-25-87

Dated: October 23, 1987.

R.K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 87-24988 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-722067

Applicant: Cincinnati Zoo, Cincinnati, OH

The applicant requests a permit to import two pairs of captive-born black-footed cats (Felis nigripes) from Hartebeespoortdam Snake and Animal Park, Hartebeespoortdam, South Africa, for the purpose of exhibit, education, propagation, and research.

PRT-722302

Applicant: Richard Morgan, Lake Charles, LA

The applicant requests a permit to import the trophy of a bontebok (Damaliscus dorcas dorcas) he culled from the captive herd of H. van Zyl Kock, Verbogenfontein Farm, Merriman, Republic of South Africa, for the purpose of enhancement of the progagation and survival of the herd.

PRT-722332

Applicant: International Animal Exchange, Ferndale, MI

The applicant requests a permit to purchase in interstate commerce two male and one female dwarf African crocodiles (Osteolaemus tetraspis) from the Jackson Zoo, Jackson, Mississippi, for education and display. The crocodiles were imported from Togo in 1976.

PRT-722277

Applicant: International Animal Exchange Ferndale, MI

The applicant requests a permit to purchase in foreign commerce one captive-born male cheetah (Acinonyx jubatus) from the Marwell Zoological Park, Hampshire, England, to sell and ship in foreign commerce to the Seoul Grand Park Zoo, Korea, for educaion and public display.

PRT-719813

Applicant: Honolulu Zoo, Honolulu, HI

The applicant requests an amendment to their current import permit to add authorization for the import of an additional captive born female Asian elephant (Elephas maximus) from Timber Corporation, Rangoon, Burma, for the purpose of captive propagation. If approved, the permit would authorize the import of a total of two femal Asian elephants.

PRT-722365

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import one male and one female captive-born lowland anoa (Bubalus depressicornis (=B. anoa depressicornis) from the Nogeyama Zoological Gardens, Yokohama, Japan, for the purpose of establishing a breeding group, education and exhibition.

PRT-722364

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import one captive-born female black-footed cat (Felis nigripes) from the Zoologischer Garten Wuppertal, Wuppertal, West Germany, for the purpose of captive breeding.

PRT-722430

Applicant: Cincinnati Zoo, Cincinnati, Ohio

The applicant requests a permit to import one male and one female Temminck's cat (Felis temmincki) from the Shang hai Zoo, Shang hai, China, for captive breeding, education and exhibition.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 23, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-24986 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals

On April 27, 1987, a notice was published in the **Federal Register** (Vol. 52, No. 80, FR 13880) that an application had been filed with the Fish and Wildlife Service by Natural History Museum of Los Angeles County (PRT 717015) for a permit to import salvaged specimens of Cetacea, Pinnipedia, Sirenia and marine otters for scientific research.

Notice is herby given that on September 28, 1987, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued the requested permit suject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: October 23, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-24987 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Alaska OCS Region, Interior.

ACTION: Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group Committee; Notice for Meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463.

The Alaska Regional Technical Working Group (RTWG) committee of the Outer Continental Shelf (OCS) Advisory Board is scheduled to meet from 9:00 a.m. to 3:00 p.m., November 20, 1987, in the Dillingham Room of the Anchorage Hilton Hotel, 500 West Third Avenue, Anchorage, Alaska. The Alaska RTWG is one of six such committees of the OCS Advisory Board that provide advice to the Director, Minerals Management Service, on technical matters of regional concern regarding OCS prelease and post-lease-sale activities.

Topics which may be addressed at the meeting are:

(a) Scoping for Saint George Basin Sale 101.

(b) United States Arctic Research Plan.

(c) Alaska OCS Region issues and activities.

(d) Surface transportation networks of Alaska's North Slope.

(e) Oil spills.

The Alaska RTWG meeting will be open to the public. Public seating may be limited. Interested persons may make oral or written presentations to the committee. A request to make a presentation should be made no later than November 13, 1987, to Alan D. Powers, Regional Director, Alaska OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508-4302, (907) 261-4010. A request to make an oral statement should be accompanied by a written summary of the oral statement. Written statements should be received by November 13, 1987.

Minutes of the meeting will be available 70 days after the meeting for public inspection and copying at the Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508-4302, and at the Office of Advisory Board Support, Minerals Management Service, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.

Dated: October 23, 1987.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 87-24983 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Advisory Board, Gulf of Mexico Regional Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. 92-463).

Name: Gulf of Mexico Regional Technical Working Group
Date: November 30—December 3, 1987
Place: Doubletree Hotel, 300 Canal Street, New Orleans, Louisiana
Time:
November 30, 1987—1:00 p.m. to 5:00 p.m.
December 1, 1987—8:00 a.m. to 4:30 p.m.
December 2, 1987—8:30 a.m. to 4:30 p.m.
December 3, 1987—8:30 a.m. to 4:30 p.m.

The Regional Technical Working Group (RTWG) membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, and other private interests. The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities.

The RTWG business meeting will be held in conjunction with the Eighth Annual Information Transfer Meeting (ITM). The ITM consists of technical presentations covering various aspects of offshore oil and gas activities. The tentative agenda of the business meeting is as follows:

Monday, November 30, 1987

1:00 p.m.
Welcome/Introductions
Gulf of Mexico Activities (Roundtable Discussion)
1:50
MMS Approval Process: Plans of Exploration and Development
2:35
BREAK
2:45
Ocean Disposal for Dredging
3:15
Oil Spill Risk Analysis: Models—Capabilities and Limitations (Panel Discussion)
4:15
Gulf Initiative Status Report
4:30
Public Comment
5:00 p.m.
Adjourn

Tuesday, December 1, 1987

8:00 a.m.
Information Transfer Meeting
4:30 p.m.
Adjourn

Wednesday, December 2, 1987

8:30 a.m.
Information Transfer Meeting
4:30 p.m.
Adjourn

Thursday, December 3, 1987

8:30 a.m.
Information Transfer Meeting
4:30 p.m.
Adjourn

This meeting is open to the public. Individuals wishing to make oral presentations to the Committee concerning agenda items should contact Eileen P. Angelico of the Gulf of Mexico OCS Regional Office at (504) 736-2959 by November 20, 1987. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123. A taped cassette transcript and complete summary minutes of the Business Meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

Dated: October 23, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region, Minerals Management Service.

[FR Doc. 87-25006 Filed 10-28-87; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enjoin Discharge of Water Pollutants; Express Electro-Plating Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. Express Electro-Plating Co.*, Civil Action No. 86-1952, was lodged with the United States District Court for the Southern District of New York on October 2, 1987. The Decree requires payment of a civil penalty of $2,500. As Express has ceased its electroplating operations, the Decree requires Express to notify EPA within 30 days of any recommencement.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Express Electro-Plating Co.*, D.J. Ref. No. 90-5-1-1-2537.

The consent decree may be examined at the office of the United States Attorney, Southern District of New York, One St. Andrews Plaza New York, New York 10007; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-25005 Filed 10-28-87; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

Research Program Plan for Fiscal Year 1988

AGENCY: National Institute of Justice, Department of Justice.

ACTION: Notice of availability.

SUMMARY: The National Institute of Justice announces the publication of its "Research Program Plan, Fiscal Year 1988." It outlines the Institute's criminal justice research agenda for which funds will be awarded, and provides application instructions and forms.

[Justice Assistance of 1984 (Pub. L. 98-473)]

For a copy of "Research Program Plan, Fiscal Year 1988" write: National Institute of Justice /NCJRS, Box 6000, Rockville, Maryland 20850, ATTN: Program Plan.

FOR FURTHER INFORMATION CONTACT: (800) 851-3420, in Maryland or Metropolitan DC (202) 251-5500.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 87-25014 Filed 10-28-87; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Archaeology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeology

Date and Time: November 17–18, 1987: 9:00 a.m. to 5:00 p.m. each day
Place: The Hilton and Towers Hotel, 720 South Michigan Avenue, Chicago, Illinois 60605
Type of Meeting: Closed
Contact Person: Dr. John Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7804.
Minutes: May be obtained from contact person listed above.
Purpose of Meeting: To provide advice and recommendations concerning support for research in archaeology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 26, 1987.

[FR Doc. 87–25049 Filed 10–28–87; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biological Instrumentation Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Instrumentation Program
Date and Time:
Thursday, November 19, 1987 from 8:30 a.m. to 5:00 p.m.
Friday, November 20, 1987 from 8:00 a.m. to 5:00 p.m.
Place: The St. James Hotel, 950 24th Street, Washington, DC 20037
Type of Meeting: Closed
Contact Person: John C. Wooley, Program Director, Biological Instrumentation, Room 325E, National Science Foundation, Washington, DC 20550, telephone: 202/357–7652
Summary Minutes: May be obtained from the Contact Person at the above address.
Purpose of Advisory Panel: To provide advice and recommendations concerning support for research instrumentation.
Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 26, 1987.

[FR Doc. 87–25050 Filed 10–28–87; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Geography and Regional Science; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Geography and Regional Science
Date/Time:
November 19, 1987: 8:30 a.m. to 6:00 p.m.
November 20, 1987: 8:30 a.m. to 6:00 p.m.
Place: Room 642, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.
Type of Meeting: Closed
Contact Person: Dr. Ronald F. Abler, Program Director, Geography and Regional Science, National Science Foundation, Washington, DC 20550, Room 336, Telephone (202) 357–7326.
Purpose of Panel: To provide advice and recommendations concernsing research in Geography and Regional Science.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b, Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 26, 1987.

[FR Doc. 87–25051 Filed 10–28–87; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for International Programs; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs
Date:
November 16, 1987, 8:00 a.m. to 5:00 p.m.
November 17, 1987, 8:00 a.m. to 1:00 p.m.
Place: National Science Foundation, 1800 G Street, NW., Room 1143, Washington, DC 20550
Type of Meeting: Open
Contact Person: Dr. John Boright, Director, Division of International Programs, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9552
Summary of Minutes: May be obtained from Contact Person
Purpose of Meeting: To provide advice, recommendations, and oversight related to support for international cooperation in science and engineering.
Agenda:
November 16:
• Update of recent international activities and concerns of NSF.
• Briefing on NAE report on International Engineering.
• Briefing and discussion of international aspects of the NSF Engineering Research and Science Centers
November 17:
• Briefing on White House International S&T policy.
• Discussion of current INT initiatives and committee agenda.
• Implications for INT of the information revolution.

M. Rebecca Winkler,

Committee Management Officer.

October 26, 1987.

[FR Doc. 87–25052 Filed 10–28–87; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Intent To Establish a Local Public Document Room for the Potential High-Level Waste Geologic Repository Site in Deaf Smith, TX

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to establish a local public document room for records pertaining to the potential High-Level Waste Geologic Repository Site, Deaf Smith, Texas.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is intending to establish a Local Public Document Room (LPDR) for records pertaining to the potential High-Level Waste Geologic Repository Site,

located near Deaf Smith, Texas. The collection currently measures approximately 60 linear feet of material. The purpose of this notice is to invite public comment on possible LPDR sites.

DATE: Comment period expires December 28, 1987. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESS: Written comments may be submitted to Mr. David L. Meyer, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Jona L. Souder, Chief, Local Public Document Room Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone 301–492–7536 or Toll-Free 800–638–8081.

Among the factors the NRC will consider in selecting a location for the LPDR collection are:

(1) Whether the institution is an established document repository with a history of impartially serving the public located in the vicinity (normally 50 miles) of the proposed facility;

(2) The physical facilities available, including shelf space, patron workspace, and copying equipment;

(3) The willingness and ability of the library staff to maintain the LPDR collection and assist the public locate records;

(4) The nature and extent of related research resources, such as government documents;

(5) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evening and weekend hours; and

(6) The proximity of the library to the potential High-Level Waste Geologic Repository Site located near Deaf Smith, Texas.

Public comments are requested on libraries in the vicinity of the Deaf Smith site that might be considered for selection as the location for this NRC local public document room collection.

Dated at Bethesda, Maryland, this 26th day of October, 1987.

For the U.S. Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration and Resource Management.

[FR Doc. 87–25063 Filed 10–28–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co.; Haddam Neck Plant; Exemption

I

The Connecticut Yankee Atomic Power Company (CYAPCO, the Licensee) is the holder of Operating License No. DPR–61 which authorizes operation of the Haddam Neck Plant (the facility) at the steady-state power levels not in excess of 1825 megawatts thermal. The license provides, among other things, that the Haddam Neck Plant is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a single-unit pressurized water reactor at the licensee's site located in Middlesex County, Connecticut.

II

The Code of Federal Regulations, 10 CFR 50.54(o), specifies that primary reactor containments for water-cooled power reactors shall comply with Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." Paragraph III.A.3 of Appendix J incorporates by reference the American National Standard (ANSI) N45.4–1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." This standard requires that containment leakage calculations for Containment Integrated Leakage Rate Tests (CILRTs) be performed using either the Point-to-Point method or the Total Time method.

A more recent standard, ANSI/ANS 56.8–1981, "Containment System Leakage Testing," which was intended to replace ANSI N45.4–1972, specifies the use of the Mass Point method to the exclusion of the two older methods. A proposed revision to Appendix J, which has been published or public comment (51 FR 39538, dated October 29, 1986), refers to a proposed Regulatory Guide (MS 021–5, October 1986), which endorses, with certain exceptions, the ANSI/ANS 56.8–1981 standard. Pending approval of the revision to Appendix J, which would permit the Mass Point analysis, licensees who wish to use the Mass Point technique must submit an application for exemption from the requirement that Appendix J test calculations for CILRTs will conform with ANSI N45.4–1972.

III

By letter dated July 10, 1987, the licensee requested an exemption from 10 CFR Part 50, Appendix J, Paragraph III.A.3, which requires that all CILRTs be performed in accordance with ANSI N45.4–1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." ANSI N45.4–1972 requires that leakage calculations be performed using either the Total Time method or the Point-to-Point method. The licensee has stated in support of the application for exemption from Appendix J that the Mass Point method is a more accurate method of calculating containment leakage.

It has been recognized by the professional community that the Mass Point method is superior to the two other methods, Point-to-Point and Total Time, which are reference in ANSI N45.4–1972 and endorsed by the present regulations. The Mass Point method calculates the air mass at each point in time, and plots it against time. A linear regression line is plotted through the mass-time points using a least square fit. The slope of this line is the leakage rate.

Draft Regulatory Guide MS 021–5, which was published for comment in October 1986, endorses, with exceptions, the ANSI/ANS 56.8–1981 standard and the Mass Point Method.

In addition to the method of calculation, consideration of the length of the test should also be included in the overall program. In accordance with Section 7.6 of ANSI N45.4–1972, a test duration less than 24 hours is only allowed if approved by the NRC staff, and the only currently approved methodology for such a test is contained in Bechtel Topical Report BN–TOP–1, Revision 1, "Testing Criteria for Integrated Leakage Rate Testing of Primary Containment Structures for Nuclear Power Plants," dated November 1, 1972. This approach only allows use of the Total Time method. Therefore, the staff will condition the exemption to require a minimum test duration of 24 hours when the Mass Point method is used.

The licensee's letter also submitted information to identify the special circumstances for granting this exemption for the Haddam Neck Plant pursuant to 10 CFR 50.12. The purpose of Appendix J to 10 CFR Part 50 is to assure that containment leak-tight integrity can be verified periodically throughout the service lifetime so as to maintain containment leakage within

the limit specified in the plant technical specifications. The underlying purpose of the rule specifying particular methods for calculating leakage rates is to assure that accurate and conservative methods are used to assess the results of containment leak rate tests. As set forth above, the Mass Point method has been a widely used method providing accurate results and the staff has determined that this method of calculating leakage satisfies the purpose of the rule.

Based on the above discussion, the licensee's proposed exemption from paragraph III.A.3 of Appendix J, to allow use of the Mass Point method as requested in the submittal dated July 10, 1987, is acceptable with the condition of 24 hours minimum test duration, until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule (or may renew its request for exemption). The exemption applies only to the method of calculating leakage by use of the Mass Point method and not to any other aspects of the tests.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(1)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption as described in Section III above from paragraph III.A.3 of Appendix J to the extent that the Mass Point method may be used for containment leakage rate calculations, provided it is used with a minimum test duration of 24 hours. The exemption is granted until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule. The exemption applies only to the method of calculating leakage by use of the Mass Point method and not any other aspects of the tests.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (52 FR 38026, October 13, 1987.

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Bethesda, Maryland this 15th day of October, 1987.

[FR Doc. 87-25060 Filed 8-28-87; 8:45 am]

BILLING CODE 2590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., (Millstone Nuclear Power Station, Unit No. 1); Exemption

I

The Northeast Nuclear Energy Company (the Licensee) is the holder of Facility Operating License No. DPR-21 which authorizes the operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) at steady state reactor core power levels not in excess of 2011 megawatts thermal. The license provides, among other things, that Millstone Unit No. 1 is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a boiling water reactor (BWR) located at the licensee's site located in the town of Waterford, Connecticut.

II

The Code of Federal Regulations, 10 CFR 50.54(o), specifies that primary reactor containments for water-cooled power reactors shall comply with Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." Paragraph III.A.3 of Appendix J incorporates by reference the American National Standard Institute (ANSI) Standard N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." This standard requires that containment leakage calculations for Containment Integrated Leakage Rate Tests (CILRTs) be performed using either the point-to-point method or total time method.

A more recent standard, ANSI/ANS 56.8-1981, "Containment System Leakage Testing," which was intended to replace ANSI N45. 4-1972, specifies the use of the mass point method to the exclusion of the two older methods. A proposed revision to Appendix J, which has been published for public comment (51 FR 39538, dated October 29, 1986), refers to a proposed Regulatory Guide (MS 021-5, October 1986), which endorses, with certain exceptions, the ANSI/ANS 56.8-1981 standard. Pending approval of the revision to Appendix J, which would permit the mass point analysis, licensees who wish to use the mass point technique must submit an application for exemption from the requirement that Appendix J test calculations for CILRTs will conform with ANSI N45.4-1972.

III

By letter dated July 10, 1987, the licensee requested an exemption from 10 CFR Part 50, Appendix J, Paragraph III.A.3, which requires that all CILRTs be performed in accordance with ANSI N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." ANSI N45.4-1972 requires that leakage calculations be performed using either the total time method or the point-to-point method. The licensee has stated in support of the application for exemption from Appendix J that the mass point method is a more accurate method of calculating containment leakage.

It has been recognized by the professional community that that mass point method is superior to the two other methods, point-to-point and total time, which are referenced in ANSI N45.4-1972 and endorsed by the present regulations. The mass point method calculates the air mass at each point in time, and plots it against time. A linear regression line is plotted through the mass-time points using a least square fit. The slope of this line is the leakage rate.

Draft Regulatory Guide MS 021-5, which was published for comment in October 1986, endorses, with exceptions, the ANSI/ANS 56.8-1981 standard and the mass point method.

In addition to the method of calculation, consideration of the length of the test should also be included in the overall program. In accordance with Section 7.6 of ANSI N45.4-1972, a test duration less than 24 hours is only allowed if approved by the NRC, and the only currently approved methodology for such a test is contained in Bechtel Topical Report BN-TOP-1, Revision 1, "Testing Criteria for Integrated Leakage Rate Testing of Primary Containment Structures for Nuclear Power Plants," dated November 1, 1972. This approach only allows use of the total time method. Therefore, the staff will condition the exemption to require a minimum test duration of 24 hours when the mass point method is used.

The licensee's letter also submitted information to identify the special circumstances for granting this exemption for Millstone Unit No. 1 pursuant to 10 CFR 50.12. The purpose of Appendix J to 10 CFR Part 50 is to assure that containment leak-tight integrity can be verified periodically

throughout the service lifetime so as to maintain containment leakage within the limit specified in the plant technical specificatons. The underlying purpose of the rule specifying particular methods for calculating leakage rates is to assure that accurate and conservative methods are used to assess the results of containment leak rate tests. As set forth above, the mass point method has been a widely used method providing accurate results and the staff has determined that this method of calculating leakage satisfies the purpose of the rule.

Based on the above discussion, the licensee's proposed exemption from paragraph III.A.3 of Appendix J, to allow use of the mass point method as requested in the submittal dated July 10, 1987, is acceptable with the condition of 24 hours minimum test duration, until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule (or may renew its request for exemption). The exemption applies only to the method of calculating leakage by use of the mass point method and not to any other aspects of the tests.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR Part 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(1)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption as described in in Section III above from Paragraph III.A.3 of Appendix J to the extent that the mass point method may be used for containment leakage rate calculations, provided it is used with a minimum test duration of 24 hours. The exemption is granted until such provision of Appendix J is modified. Thereafter, the licensee shall comply with the provisions of such rule. The exemption applies only to the method of calculating leakage by use of the mass point method and not any other aspects of the tests.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (52 FR 38027, October 13, 1987).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Projects III, IV, V, and Special Projects.

Dated at Bethesda, Maryland this 15th day of October, 1987.

[FR Doc. 87-25061 Filed 10-28-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Meeting and Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations to be held Wednesday, November 4, 1987, from 1:30 p.m. to 4:30 p.m. in Washington, DC, will include the development, review and discussion; of current issues which influence the trade policy of the United States. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with meeting the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

Inquiries may be directed to Barbara W. North, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 87-25004 Filed 10-28-87; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25060; File No. SR-MBS-87-9]

Self-Regulatory Organizations; Proposed Rule Change by MBS Clearing Corp.

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 September 25, 1987 the MBS Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the MBS Clearing Corporation's (MBSCC) procedures regarding the physical withdrawal of securities eligible ("Eligible Securities") for deposit in MBSCC's Depository Division. The procedures will be in effect for a period of 60 days from September 25, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change clarifies and sets forth MBSCC's policy regarding the physical withdrawal of Eligible Securities. The policy covers Eligible Securities subject to the Public Securities Association's ("PSA") Good Delivery Guideline for securities issued by the Government National Mortgage Association ("GNMA"), as adopted on December 29, 1986, as well as those not subject to PSA's guideline. The PSA guideline was announced together with a schedule by GNMA and PSA for the conversion of GNMA securities into book-entry form.

The policy substantially limits, but does not altogether prohibit, the withdrawal of securities subject to PSA's Good Delivery Guideline. Securities not subject to the guideline may be withdrawn by MBSCC Participants and registered in the name of the Participant or the name of a customer of the Participant. Securities subject to the guideline may be withdrawn and registered in a Participant's name only if the Participant is legally required to maintain physical possession of the securities. Participants may otherwise request physical withdrawal of securities on behalf of a customer only if the customer is legally required to maintain physical possession of the securities or the customer, to the best of the Participant's knowledge, does not

intend to trade or deliver the withdrawn securities.

At the present time, GNMA securities with the following coupon rates have been converted to book-entry form and are subject to the PAS guideline: 5.50%–7.49%, 16.00%–17.50%, 14.00%–15.99%, and 13.00%–13.99%. On April 27, 1987, PSA and MBSCC modified the conversion schedule of GNMA securities. For additional coupons notice will be given of coupons to be designated as specified for book-entry settlement 45 days in advance of the issuance date of new pools of coupons.

In response to concerns raised by various commentators, MBSCC has further revised the withdrawal policy to make it clear that a Participant may make a request to withdraw securities subject to the PSA good Delivery Guideline if it is legally required to maintain, as well as obtain, physical possession of securities. The phrase "legally required to obtain or maintain physical possession" is expanded to include these legal requirements imposed by any rule or regulation of any govenmental agency, self-regulatory organization or designated contract market as defined in the Commodity Exchange Act. In addition, the policy has been revised to enable the Participant, or its customer, to obtain securities in time to comply with such legal requirements.

Consistent with PSA's Good Delivery Guideline, the policy essentially ensures that securities subject thereto will be cleared and settled in book-entry form through a registered clearing agency. The policy is designed to reduce physical withdrawal requests for book-entry eligible securities subject to the guidline and encourage the centralized processing of mortgage-backed securities transactions. By placing reasonable restrictions on the physical withdrawal of mortgage-back securities subject to the PSA guideline, the proposed rule change will both foster PSA's mandate for book-entry settlement of certain transactions and significantly reduce delays, unmatched transaction orders and other human errors often associated with the physical delivery and transfer of certificates.

The proposed rule change is consistent with section 17A of the Securities Exchange Act of 1934 in that it encourages the processing and facilitation of securities clearance and settlement of mortgage-backed securities, thereby reducing current inefficient procedures and costs to issuers and investors of mortgage-backed securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that any burden will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

While written comments have not been generally solicited, MBSCC has submitted responses to comments submitted to the Commission. In response to certain concerns raised by the Chicago Board of Trade regarding the obtaining of GNMA certificates for collateral purposes relating to Collateralized Depository Receipts, MBSCC has made revisions to the proposed rule change discussed in Item 3(a) above.

In a separate rule filing to MBSCC's Depository Division rules (SR–MBS–87–7, submitted July 24, 1987), MBSCC has responded to concerns raised by some commentators regarding the submission of claims under a GNMA or other similar guarantee on behalf of Participants. The Depository Division rules have been amended to make clear that MBSCC, in filing claims for payment under any guarantee, will be acting solely as agent for its Participants, except in certain circumstances, where MBSCC or a third-party lender have made principal and interest advances.

Representatives of PSA and GNMA have had the opportunity to review the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. SR–MBS–87–9 and should be submitted by November 19, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 23, 1987.

Shirley E. Hollis,

Assistant Secretary.

MBSCC Procedure for Physical Withdrawal of Depository Eligible Securities

The following is MBSCC's Procedure for physical withdrawal of securities from the MBSCC Depository. The Procedure covers securities that are *not* yet subject to PSA's Good Delivery Guideline, as adopted by PSA on December 29, 1986, *as well as those* subject to the Guideline. This Procedure limits almost in its entirety the withdrawal of securities that are subject to PSA's Good Delivery Guideline. This is consistent with PSA's and GNMA's intent to move vigorously to a book-entry settlement environment for GNMA securities.

Securities Not Yet Subject to Good Delivery Guideline

In the case of securities not yet subject to the Good Delivery Guideline, a Participant will be permitted to withdraw Securities held by the Depository upon the Participant's submission of a request on the form prescribed by MBSCC. The Participant must specify whether the securities should be registered in the name of the Participant or the name of a customer of the Participant. Assuming that the request is made within the appropriate cut-off times prescribed by MBSCC, securities will be processed within four-to-twelve hours of such request.

Securities Subject to Good Delivery Guideline

MBSCC will honor requests to withdraw securities subject to the PSA Good Delivery Guideline in a Participant's name only in the unlikely event that the Participant is legally required to obtain or maintain physical possession of securities. Other Participants may submit requests for withdrawal of securities only if they request that the securities be registered in the name of a customer who is legally required to obtain or maintain physical possession of the securities or who, to the best of the Participant's knowledge, does not intend to trade, or deliver for financing purposes, the securities withdrawn. For purposes hereof, a Participant or its customer will be deemed legally required to obtian or maintain physical possession of securities if obligated to do so under any applicable law or any rule or regulation of any governmental agency, any self-regulatory organization as defined in the Securities Exchange Act of 1934, or any designated contract market as defined in the Commodity Exchange Act (including, in the case of a self-regulatory organization or designated contract market which is a Participant in the Depository, the rules or regulations of such self-regulatory organization or designated contract market).

Assuming a request for withdrawal satisfies the foregoing guidelines and is made within the appropriate cut-off times and on forms prescribed by MBSCC, MBSCC will make the securities available (a) seven calendar days from the date of withdrawal request, or (b) on such earlier date as the Participant requesting the withdrawal certifies to MBSCC is necessary to enable the Participant or its customer to comply with any applicable legal requirement. Participants should advise their customers that payment will be required on settlement date, even though the physical security may be received sometime thereafter.

By making a request for the withdrawal of securities, a MBSCC Depository Participant represents to the Depository that the withdrawal will satisfy the foregoing guidelines. Abuse of this policy will subject the offending Participant's continued participation in the Depository to review by the MBS Clearing Corporation Board of Directors.

[FR Doc. 87-25086 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24985; File No. SR-NYSE-86-21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. Relating to a Revision of the List of Exchange Rule Violations and Applicable Fines; Republication

[Editorial Note: The following document was originally published at page 38296 in the issue of Thursday, October 15, 1987. In that publication, several paragraphs were omitted. The corrected document is reprinted below in its entirety.]

The New York Stock Exchange, Inc. ("NYSE") submitted, on July 10, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 [2] thereunder, to revise the list of NYSE rules eligible to be considered pursuant to the NYSE's minor rule violation plan.[3] In particular, the purpose of the NYSE proposal is to include, within the minor rule violation plan, certain rules which are administered by the NYSE's Member Firm Regulation and Enforcement and Regulatory Standards Divisions.

In 1984, the Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit, for Commission approval, plans for the abbreviated reporting of minor rule violations.[4] The Commission previously approved such a plan filed by the NYSE.[5] The approved plan relieves the NYSE of the current reporting requirement imposed under section 19(d)(1) for violations listed in NYSE Rule 476A. The NYSE plan, as embodied by Rule 476A, provides that the Exchange may designate violations of certain rules as minor rule violations. The Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, or member approved person, or registered or non-registered employee of a member organization for a violation of the delineated rules by issuing a citation with the specified penalty. The respondent can either accept the penalty, or force a full disciplinary hearing on the matter. Fines assessed pursuant to Rule 476A in excess of $2,500 are not considered pursuant to the plan and must be reported in a manner consistent with the current reporting requirements of section 19(d)(1). Further, the Exchange also retains the option of bringing violations of rules included under Rule 476A to full disciplinary proceedings.

The NYSE has proposed to add the following rules to its Rule 476A list: Rules 312(a-c), 313, 345.13, 346(c), 351, 421, 440F, 440G, 440H and 706 (reporting rules); Rules 312(h-i), 342(c), 342.10, 382(a) and 791(c) (Exchange approval requirements); Rules 345.18, 410, 432(a) and 440 (record retention rules); Rule 343 (member organization office sharing requirements);Rule 387 (customer collect on delivery/payment on delivery transaction requirements); Rule 407 (requirements for transactions of employees of the Exchange, member organizations and certain non-member organizations); Rule 408(a) (requirements of written authorization for descretionary authority over customer accounts); Rules 451 and 452 (requirements related to proxy authorizations and proxy materials); Rule 726 (option disclosure document and prospectus delivery requirements); and Rule 781 (allocation of exercise assignment notice violations).

Notice of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 24474, May 19, 1987) and by publication in the **Federal Register** (52 FR 20181, May 29, 1987). No comments were received regarding the proposal.

The Commission has considered carefully the NYSE's proposal in light of the requirements of the Act and the Commission's intent in promulgating Rule 19d-1. As part of that review, the Commission examined the surveillance and compliance purposes served by quarterly as opposed to immediate

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[1] 15 U.S.C. 78s(b).

[2] 17 CFR 240.19b-4 (1986).

[3] *See* NYSE Rule 476A ("Imposition of Fines for Minor Violations of Rules"). Included within Rule 476A is the list of Exchange rules whose violations may be reported pursuant to the NYSE's minor rule violation plan. The Commission notes that it simultaneously is approving amendments to the NYSE minor rule violation plan. *See* Securities Exchange Act Release No. 24986.

[4] *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 409 FR 23838. Pursuant to paragraph (c)(1) of Rule 19d-1, an SRO is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Pursuant to paragraph (c)(2), of Rule 19d-1, any disciplinary acton taken by the SRO for violation of an SRO rule that has been designated a minor rule pursuant to the plan shall not considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated, minor violations as not final, the Commission permits the SRO to report violations on a periodic, as opposed to immediate, basis. *See* note 7 *infra* (detailing content of quarterly reports filed pursuant to the NYSE plan).

[5] Securities Exchange Act Release No. 22415 (September 14, 1985), 50 FR 38600.

reporting of violations. The Commission notes that a majority of the rules proposed by the NYSE to be included in its minor rule violation plan are basically of a record retention and reporting nature. The Commission believes, generally, that violations of such rules can be determined accurately and objectively, and, therefore, the summary procedures of the NYSE plan are appropriate for these rules. In particular, the Commission believes that Exchange quarterly reporting of violations of such rules satisfactorily should serve the regulatory and surveillance needs of the NYSE and the Commission in effectively enforcing compliance with these rules. Therefore, consistent with the purposes of the Act, and specifically sections 6 and 19 thereunder,the Commission has decided to approve the addition of these rules to the NYSE's minor rule violation plan. [6] As such, violations of these rules may be treated by the NYSE and reported to the Commission in a manner identical to all other violations subject to the NYSE's minor rule violations plan. [7]

The five remaining proposed NYSE rules [8] are different in nature from the list of rules already included under Rule 476A and the above-mentioned rules in that these rules generally relate to the member's relationship with its customers and directly relate to important investor safeguards. In particular, Rules 451 and 452 require NYSE members to transmit proxy materials to beneficial owners of stock and establish procedures for delivery proxies by a member organization for stock registered in its name. Strict compliance with these two rules is necessary to ensure that the member organization is in compliance with Section 14 of the Act and the rules and regulations promulgated thereunder.[9] Likewise, failure to adhere to the requirements contained in Rule 726, mandating delivery to a customer of the current Options Disclosure Document at or prior to approval of the customer's account, also effects compliance with Rule 9b–1 under the Act.[10] Further, the requirements contained in Rule 408(a) represent essential customer protection safeguards against unauthorized trading, and the requirements of Rule 432(a) serve as part of an overall scheme of margin regulation designed to protect the markets, and specifically the margin purchaser, by preventing the purchase of securities with insufficient margin.[11]

In adopting Rule 19d-1, the Commission noted that the rule was an attempt to balance the informational needs of the Commission against the reporting burdens of the SROs.[12] In promulgating paragraph (c) of the rule,[13] the Commission was attempting further to reduce those reporting burdens by permitting, where immediate reporting was unnecessary, quarterly reporting of minor rule violations. The various SROs have since realized that the inclusion of rules under a minor rule violation plan not only can reduce reporting burdens but also can make their disciplinary systems more efficient. The Commission however, expressed concern, when promulgating the rule, that the SROs would use that provision for the disposition of increasingly more significant violations. Indeed, the Commission specifically rejected a recommendation, made by the Chicago Board Options Exchange ("CBOE"), to raise the fine ceiling to $10,000, in an attempt to limit the use of these plans to "matters of minimal regulatory concern."[14] To ensure further that plans pursuant to Rule 19d–1(c) would be used for intended purposes only, the Commission retained the authority to restrict the categories of violations and impose any terms or conditions that it saw necessary.[15] Specifically, the Commission remains unconvinced that the inclusion of rules that are not basically technical or objective in nature are appropriate for a minor rule violation plan.

The Commission, therefore, is concerned that violations of the above cited five rules may present more than "minimal regulatory concern." At the same time, however, the Commission recognizes that the inclusion of such rules under the NYSE's 19d–1 plan could have positive results, especially in the area of compliance. According to the NYSE, inclusion of these rules will provide an effective alternative response to a rule violation when the initiative of full disciplinary proceedings is unsuitable because such a proceeding would be more costly and time-consuming in view of the minor nature of the particular violation if not the category of violation. The NYSE claims that, presently, members are aware that lesser violations of the five rules probably will result only in a verbal warning or letter of caution and not full disciplinary proceedings. Accordingly, the NYSE believes that its ability to enforce compliance with these rules will increase with the ability to issue summary fines for these violations.[16]

In effect, the NYSE argues that, even though the categories of requirements covered by the five rules provide important investor safeguards, any particular violation of such a rule may or may not rise to the level which would justify a full discipinary proceeding. Thus, in the NYSE's view, because it retains the discretion to bring such a full disciplinary proceeding, adding these rules to its minor disciplinary plan only will enhance, rather than reduce, its enforcement capabilities regarding such rules.

While the Commission is not persuaded the residual availability of full disciplinary proceeding always will justify placing a rule within the minor disciplinary plan, it recognizes that the issue of whether the inclusion of these rules within the minor disciplinary plan will provide a net benefit to the NYSE's enforcement efforts is ultimately a question of how the program is implemented. If the minor disciplinary characterization is used in a manner which is sensitive to the underlying goal of Rule 19d–1, including these rules within the plan may enhance the NYSE's compliance effects. The Commission therefore has determined that, in order to balance the regulatory needs and reqirements of the Commission as set forth in section 19(d), and the compliance goals and reporting burdens of the NYSE, inclusion of these rules under the NYSE's minor rule violation plan should be approved for a pilot period of two years. During that time, the Commission will examine whether summary disposition and quarterly reporting of such vilations allows

[6] Specifically, the Commission has determined that Rules 312(a), 312(b), 312(c), 312(h), 312(i), 313, 342(c), 342.10, 343, 345.13, 345.18, 346(c), 351, 382(a), 387, 407, 410, 421, 440, 440F, 440G, 440H, 706, 761, and 791(c) should be eligible to be included under NYSE's Rule 476A.

[7] Reports to the Commission pursuant to NYSE Rule 476A must include a quarterly report listing: (1) The NYSE internal file number for the case; (2) the SEC file number; (3) the name of the individual or member organization; (4) the nature of the violation; (5) the specific rule provision violated; (6) the date of the violation; (7) the fine imposed; (8) an indication of whether the fine is joint and several; (9) the number of times the violation has occurred; and (10) the date of disposition.

[8] *See* NYSE Rules 408(a), 432(a), 451, 452 and 726.

[9] 15 U.S.C. 78m (1976).

[10] 17 CFR 240.9b–1 (1986).

[11] *See, e.g.*, Report of Senate Committee of Banking and Currency, Stock Exchange Practices, S. Rep. No. 1455, 73d Cong., 2d Sess. 11 (1934).

[12] *See* Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36411.

[13] *See* note 4, *supra*.

[14] *See* Securities Exchange Act Release No. 21013, 43 FR 23838. Specifically, the Commission noted:

In our view, sanctions of that level [$10,000] rarely would involve matters of minimal regulatory concern. Instead, they either involve isolated infractions of significant rules or repeated violations of less significant rules which warrant a stringent sanction. The [Commission] believes that it is important that the Commission be informed on a timely basis of infractions in either situation.

[15] *Id.*

[16] *See* File No. SR-NYSE-86-21.

respondents sufficient due process protections and the Commission sufficient information by which to carry out its oversight responsibilities concerning the enforcement and disciplinary activities of the SROs.[17] To aid in that examination, the NYSE has agreed to submit two reports to the Commission on compliance activities concerning these five rules: one report submitted at the midpoint of the pilot and the other prior to the pilot's expiration.[18]

The two reports submitted by the NYSE concerning these five rules will include considerably more detail than the quarterly reports presently submitted by the NYSE. First, these reports should include statistics on the number of violations of the five rules handled pursuant to the NYSE's minor rule plan. Second, the following information in connection with each violation must be reported, although it should be noted that the Commission may, from time to time, request additional information: (1) The name of each violator; (2) a description of the circumstances under which the violation occurred; (3) the resulting sanction; (4) whether this is a first or repeat offense in this category by the respondent; (5) whether the violation led to any further investigation or violations; and (6) an analysis by the NYSE of how these cases might have been treated if not for the pilot program (*i.e.*, verbal or written caution or full disciplinary proceeing). Third, these reports must include statistics and descriptions of those cases that the NYSE attempted to bring under its minor rule plan, but the respondent requested a hearing. Fourth, these reports must contain an analysis of the overall compliance process for these five rules. Moreover, as the Commission plans to monitor this pilot program through its inspections program and the Rule 19d–1 reporting requirement, the NYSE should retain, consistent with section 17(a) of the Act,[19] in connection with any violation of these five rules, all back-up documentation and analysis leading to either a Rule 19d–1 filing or a more detailed exchange investigation in any compliance capacity.[20]

[17] Reporting of violations by SROs to the Commission is an essential means of SRO oversight by supplementing the information obtained through inspections.

[18] *See* telephone conversation between Rudy Schriber, NYSE, and Stephen Luparello, Staff Attorney, Division of Market Regulation, dated August 31, 1987.

[19] 15 U.S.C. 78q(a).

[20] The Commission also notes that it retains the right to revoke any part or the entire pilot program prior to its expiration if it determines that such an action is necessary in order to further or protect the public interest (*i.e.*, if the absence of quarterly reporting leads to deficiencies in NYSE surveillance or disciplinary procedures).

Based on the above, the Commission finds that the proposed amendments, with the inclusion of the pilot program, are consistent with the requirements of the Act, and specifically Sections 6 and 19 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) under the Act, that the proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 5, 1987.

[FR Doc. 87–23820 Filed 10–4–87; 8:45 am]

BILLING CODE 1505-01-D

[Release No. 34–25059; File No. SR–OCC–87–18]

Self-Regulatory Organizations; Filing and Order Temporarily Approving a Proposed Rule Change by Options Clearing Corp. on an Accelerated Basis

Pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1987, Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission a proposed rule change that enables OCC to waive clearing member margin requirements in certain circumstances.[1] The Commission is publishing this Order to solicit comments on the proposal from interested persons. This Order also temporarily approves the proposal on an accelerated basis until February 28, 1988.

I. Description of the Proposal

The proposed rule change adds a new Rule 609A to Chapter VI of OCC rules dealing with clearing member margin requirements. The proposal authorizes the Chairman or the President of OCC to waive, in whole or in part, conditionally or unconditionally, any deposit of margin that would otherwise be required to be made by any clearing member in any account at any time during any business day. Such a waiver must be based upon a determination that it (1) is advisable in the interest of maintaining fair and orderly markets or is otherwise advisable in the public interest or for the protection of investors, and (2) is consistent with maintaining the financial integrity of OCC.

Additionally, the proposal subjects OCC to certain obligations. The proposed rule requires OCC to consult with the Commission before exercising its authority to waive margin requirements. The proposal also requires that a record of any such waiver be prepared and maintained with the records of OCC. Finally, unless OCC seeks permanent approval before that time, new Rule 609A and the authority granted thereunder will expire at the close of business on February 28, 1988.

II. OCC's Rationale for the Proposal

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act. OCC states in its filing that the proposed rule change serves the public interest and the protection of investors by giving OCC needed flexibility in dealing with unusual market conditions.

OCC also believes there is good cause for temporarily approving the proposed rule change on an accelerated basis. OCC states that the proposed rule change is necessary to enable OCC to respond to current market conditions.

III. Discussion

The Commission believes the proposal is consistent with section 17A of the Act and is approving it on an accelerated, temporary basis. As discussed below, the Commission believes the proposal gives OCC management the flexibility to deal with unusual market conditions. The Commission also believes that the proposal is consistent with OCC's obligations to safeguard funds and securities and to maintain appropriate financial responsibility standards.

The Commission believes it appropriate for OCC to be able to adjust margin requirements, either with respect to particular options members or generally, to help assure necessary liquidity in extraordinary market circumstances. OCC's margin formulas reduce the market value of unsegregated long options positions for margin credit purposes. Those reductions could be unnecessarily large when applied to deep-in-the-money options with substantial intrinsic value, resulting in more margin than is necessary for the protection of OCC while adversely affecting the liquidity of OCC clearing members in unusual market conditions. The Commission notes that the authority under new Rule 609A is restricted to the Chairman and President of OCC and is established on a temporary basis to

[1] The term "waive" is intended to include adjustments or modifications to OCC's formulas for calculating margin requirements.

respond to current market conditions. Moreover, the Commission believes that prior consultation and maintenance of a record of any such waiver (including a concise contemporaneous statement of the reasons for the waiver) should help to assure consideration of all appropriate factors, including clearing member liquidity, equitable treatment of clearing members, and OCC's obligation to safeguard securities and funds.

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and, in particular, with section 17A. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication in the Federal Register, because the proposal should enable OCC to make appropriate responses to unusual market conditions. Nevertheless, the Commission is approving the proposed rule change temporarily until February 28, 1987. Temporary approval will enable OCC to respond to current market conditions and will enable the Commission to provide a comment period for persons interested in the proposal.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-OCC-87-18.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which 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 Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of OCC.

It is therefore ordered, pursuant to section 19(b) of the Act, that the proposed rule change (SR-OCC-87-18) be, and hereby is, approved on a temporary basis until February 28, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 23, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25089 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 23, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Charter House Enterprises Inc.
Common Stock, $1.00 Par Value (File No. 7-0672)
Varity Corporation
$1.30 Cumulative Convertible Preferred A (File No. 7-0673)
Wolverine Technologies Inc.
Common Stock, $1.00 Par Value (File No. 7-0674)
American General Corp.
Warrants, Expiring 1/4/89 (File No. 7-0675)
Federal National Mortgage
Warrants, Expiring 2/15/87 (File No. 7-0676)
McDermott International Inc.
Warrants, Expiring 4/1/90 (File No. 7-0677)
USX Corporation
Warrants, Expiring 9/14/87 (File No. 7-0678)
Heritage Entertainment
Common Stock, $.01 Par Value (File No. 7-0679)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25081 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 23, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Clark Equipment Company
Common Stock, $7.50 Par Value (File No. 7-0652)
Kentucky Utilities Company
Common Stock, No Par Value (File No. 7-0653)
Franklin Resources, Inc.
Common Stock, $0.10 Par Value (File No. 7-0654)
Gabelli Equity Trust Inc.
Common Stock, $0.001 Par Value (File No. 7-0655)
John H. Harland Company
Common Stock, $1.00 Par Value (File No. 7-0656)
Hartmarx Corp.
Common Stock, $2.50 Par Value (File No. 7-0657)
Freeport-McMoRan Gold Company
Common Stock, $0.10 Par Value (File No. 7-0658)
Gibralter Financial Corp.
Capital Stock, $1.00 Par Value (File No. 7-0659)
Harnischfeger Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-0660)
QMS, Inc.
Common Stock, $0.01 Par Value (File No. 7-0661)
Aon Corporation
Common Stock, $1.00 Par Value (File No. 7-0662)
Centel Corporation
Common Stock, $0.25 Par Value (File No. 7-0663)
National Service Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-0664)
Centex Corporation
Common Stock, $0.25 Par Value (File No. 7-0665)
Nalco Chemical Company
Common Stock, $0.75 Par Value (File

No. 7–0666)
Pall Corporation
Common Stock, $0.25 Par Value (File No. 7–0667)
Apache Petroleum Company
Depositary Units (File No. 7–0668)
AVX Corp.
Common Stock, $1.00 Par Value (File No. 7–0669)
Computer Factory Inc.
Common Stock, $0.01 Par Value (File No. 7–0670)
Houghton Mifflin Company
Common Stock, $1.00 Par Value (File No. 7–0671)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–25082 Filed 10–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16072; 811–2658 and 811–2134]

First Midwest Corp. and First Midwest Capital Corp.; Applications

October 23, 1987.

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

ACTION: Notice of applications for deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicants: First Midwest Corporation ("Parent") and First Midwest Capital Corporation ("Subsidiary").

Relevant 1940 Act Section: Section 8(f) and Rule 8f–1 thereunder.

Summary of Applications: Applicants seek an order declaring that they have ceased to be investment companies.

Filing Date: The separate applications on Form N–8F were filed on July 2, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the applications will be granted. Any interested person may request a hearing on these applications, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 16, 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 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 914 Plymouth Building, 12 South Sixth Street, Minneapolis, Minnesota 55422.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272–2847 or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the applications; the complete applications on Form N–8F are available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Parent filed Form N–8A on August 2, 1976, to register as a closed-end, non-diversfied management investment company. The Subsidiary filed Form N–8A on October 21, 1970, to register as a closed-end, non-diversified management investment company, and Form N–5A on November 1, 1976, to register as a Small Business Investment Company. Applicants are corporations organized under the laws of the State of Minnesota and they have filed plans of liquidation with the State of Minnesota which they expect to become effective late in 1987.

2. On June 18, 1985, the Board of Directors of each Applicant recommended that shareholders approve a Plan of Liquidation (the "Plan") for Applicants in which all of the assets and liabilities of the wholly-owned Subsidiary would be transferred to the Parent in anticipation of the complete liquidation of the Parent. On August 27, 1985, shareholders of each Applicant approved the Plan.

3. On April 17, 1986, the assets and liabilities of the Subsidiary were transferred to the Parent who then distributed cash and common stock from Applicants' investment portfolios valued at approximately $1.5 million to the Parent's shareholders in accordance with the provisions of the Plan. On April 30, 1986, the balance of the net assets of the Parent, which totaled $1,973,655, were distributed into a Liquidating Trust ("Trust") for the benefit of the Parent's 385 shareholders. Unless earlier terminated by the beneficiaries, the Trust will continue until the first to occur of (i) the complete distribution of the Trust's assets or (ii) the expiration of three years from the date of its creation. However, the Trust may continue beyond three years for the limited purposes of holding funds for missing shareholders, dealing with pending litigation, and collecting payments on certain installment obligations.

4. Applicants are not a party to any litigation or administrative proceedings. Applicants are not now engaged nor do they propose to engage in any business activities other than those necessary for the winding up of their affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–25054 Filed 10–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16075; 811–3958]

LBY Holding Corp.; Application

October 23, 1987.

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

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: LBY Holding Corporation ("Applicant").

Relevant 1940 Act Section: Section 8(f) and Rule 8f–1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application on Form N–8F was orginally filed on September 23, 1985. A revised application was filed on October 20, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the

Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 23rd Floor, 405 Lexington Avenue, New York, NY 10174.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst, (202) 272–2847 or H.R. Hallock, Special Counsel, (202) 272–3030 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application on Form N–8F is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant filed a registration statement pursuant to section 8(b) of the Act on May 2, 1984. Applicant is in the process of liquidation and upon completion of its final tax return, will dissolve pursuant to the Business Corporation Law of the State of New York.

2. Applicant's Board of Directors approved its plan of complete liquidation and dissolution on January 18, 1985 and Applicant's shareholders approved the plan on February 25, 1985. On March 12, 1985, Applicant had net assets valued at $3,594,556 or $22.55 per share and on that date it made an initial liquidating distribution to its 221 shareholders equal to $4.00 per share. On August 27, 1985, Applicant made a second liquidating distribution equal to $18.00 per share. A pro-rata final distribution from the approximately $175,000 in remaining assets of the Applicant will be made after the payment of all expenses incurred in the liquidation and any unknown liabilities which may be asserted.

3. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–25055 Filed 10–28–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16078/File No. 812–6832]

Application for Exemption; Lutheran Brotherhood Variable Insurance Products Co., et al.

October 23, 1987.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Lutheran Brotherhood Variable Insurance Products Company ("LBVIP"); LBVIP Variable Annuity Account I (the "Variable Account"); and Lutheran Brotherhood Securities Corp.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants seek an order to permit them to issue flexible premium deferred variable annuity contracts (the "Contracts") that permit a deduction of mortality and expense risk charges.

Filing Date: The application was filed on August 14, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant(s) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants' addresses: c/o Otis F. Hilbert, Lutheran Brotherhood Variable Insurance Products Company, 625 Fourth Avenue South, Minneapolis, MN 55415.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Ulness, Attorney (202) 272–2026 or Lewis B. Reich, Special Counsel (202) 272–2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicants' Representations

1. LBVIP is a stock life insurance company organized under the laws of the State of Minnesota in 1982. LBVIP is currently licensed to transact life insurance business in 38 states and the District of Columbia. LBVIP is an indirect subsidiary of Lutheran Brotherhood, which is a fraternal benefit society owned by and operated for its members. Lutheran Brotherhood was organized in 1917 under the laws of the State of Minnesota.

2. The Variable Account is a separate account of LBVIP, established by the Board of Directors of LBVIP on May 1, 1987, pursuant to the laws of the State of Minnesota for the purpose of funding certain flexible premium deferred variable annuity insurance contracts issued by LBVIP.

3. Premiums paid under any Contract may be allocated, according to a Contractowner,s instructions, to one or more of the Subaccounts of the Variable Account. The Variable Account initially will have three Subaccounts: the Growth Subaccount; the Income Subaccount; and the Money Market Subaccount. Each of these Subaccounts of the Variable Account will invest solely in a corresponding portfolio of LBVIP Series Fund, Inc. (the "Fund"), which is registered as an open-end diversified management company of the series type. LBVIP reserves the right to establish additional Subaccounts of the Variable Account, each of which would invest in shares of a new corresponding portfolio of the Fund or in shares of another investment company having a specified investment objective.

4. The Contracts are individual flexible premium deferred variable annuity contracts, and will be offered only to persons who are eligible for membership in Lutheran Brotherhood, unless otherwise required by state law. Contracts may be sold to or in connection with retirement plans which may or may not qualify for special Federal tax treatment under the Internal Revenue Code. The minimum amount LBVIP will accept as an initial premium is $600 on an annualized basis. Subsequent premiums may be paid under a Contract, but LBVIP may choose not to accept any subsequent premium if it is less than $50.

5. Under the Contract LBVIP deducts from the Variable Account a daily mortality and expense risk charge, guaranteed not to increase above an annual rate of 1.25%, from the Accumulated Value prior to the Maturity Date and from annuity unit values during the annuity period. LBVIP will,

however, initially impose a daily mortality and expense risk charge in an amount that is equal to an annual rate of 1.10% (approximately .80% for mortality risk and approximately .30% for expense risk) of the daily Accumulated Value or annuity unit values, as the case may be. This deduction is made to compensate LBVIP for the mortality and expense risks it assumes. LBVIP assumes the mortality risk that beneficiaries of Contractowners or annuitants dying before the Maturity Date may receive amounts in excess of the then current Accumulated Value. In addition, LBVIP Will not increase charges for administrative expenses regardless of its actual expenses.

6. Applicants represent that the mortality and expense risk charge is designed only to cover the cost of bona fide mortality and administrative expense risks, and that the maximum possible level of such charge (an annual rate of 1.25%) is reasonable in relation to the mortality and administrative expense risks assumed under a Contract. Applicants also represent that such maximum possible level of such charge is within the range of industry practice for comparable annuity contracts. These representations are based upon an analysis of the mortality and expense risks involved, and an analysis of publicly available information about comparable contracts, taking into account the particular annuity features of such contracts (including such factors as current charge levels, charge level guarantees or annuity rate guarantees, the manner in which charges are imposed and the markets in which such contracts are offered). Applicants will maintain and make available to the Commission upon request a memorandum explaining the basis for these representations and the documents used to support these representations.

7. If a Contract is surrendered, in whole or in part, while the Contract is in force and on or before the Maturity Date, a surrender charge is imposed on the Excess Amount of such surrender if such surrender occurs before the Contract has been in force for six full Contract Years as follows:

Contract year in which total or partial surrender occurs	Charge as percentage of excess amount surrendered
1	6
2	5
3	4
4	3
5	2
6	1
7 and after	0

The charge is applied as a percentage of the Excess Amount surrendered, but in no event will the total surrender charge on any one Contract exceed a maximum limit of 6½% of total gross premiums paid under the Contract.

Up to 10% of the Accumulated Value of a Contract may be surrendered each Contract Year without a surrender charge

Surrender charges otherwise payable will be waived with respect to surrenders made by the Contractowner when the annuitant is totally disabled (as defined in the Contract).

Although no surrender charge is deducted with respect to surrenders during the annuity period, if a settlement option that does not involve a life contingency is chosen, a surrender charge will be deducted from the Accumulated Value of the Contract if the Maturity Date occurs at any time during the surrender charge period of six full Contract Years.

8. If the amount of all charges assessed in connection with the Contracts is not enough to cover all expenses incurred in connection therewith, the loss will be borne by LBVIP. Any such expenses borne by LBVIP will be paid out of its general account which may include, among other things, proceeds derived from mortality and expense risk charges deducted from the Variable Account. Conversely, if the amount of such charges proves more than enough, the excess will be retained by LBVIP. Applicants state that they do not believe that the surrender charge imposed in connection with certain partial or total withdrawals under the Contracts or at annuitization will cover the expected costs of distributing the Contracts. LBVIP states that it has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts will benefit the Variable Account and the Contractowners. Applicants undertake to keep and make available to the Commission upon request a memorandum setting forth the basis for this representation. Applicants further represent that the Variable Account will only invest in underlying fund(s) which have undertaken to have a board of directors, a majority of whom are not interested persons of the Fund, formulate and approve any plan under Rule 12b-1 under the Act to finance distribution expenses.

9. On each Contract anniversary prior to and including the Maturity Date, LBVIP deducts from the Accumulated Value, proportionately from the Subaccounts that make up such Accumulated Value, an annual administrative charge of $30 to reimburse LBVIP for administrative expenses relating to the Contract, the Variable Account and the Subaccounts. No such charge is deducted if on that Contract anniversary the total amount of premiums paid under the Contract, less the amount of all prior partial surrenders (which includes the amount of related surrender charges), is equal to or greater than $5,000. LBVIP does not expect to make a profit on this charge. No administrative charge is payable during the annuity period.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25083 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16077; (812-6727)]

Application M.D.C. Asset Investors Funding Corp.

Date: October 23, 1987.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: M.D.C. Asset Investors Funding Corporation (formerly M.D.C. Mortgage Funding Corporation III).

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an exemptive order to permit it to issue and sell mortgage related securities ("Bonds") and residual equity interests in real estate mortgage investment conduits formed for the purpose of issuing such Bonds.

Filing Dates: The application was filed on May 18, 1987, and amended on October 9 and 19, 1987. Another amendment will be filed during the notice period the substance of which is contained herein.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing

on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secrerary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicant: c/o Mark T. Shehan, Esq., Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272–3033, or Brion R. Thompson, Special Counsel (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application: the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, which was incorporated under Delaware law on July 23, 1986, was organized solely for the purpose of facilitating the financing of long-term mortgage loans through the issuance of Bonds secured primarily by Mortgage Collateral (as defined below). Applicant will not engage in any business or investment activities other than that which is related to the issue and sale of the Bonds. M.D.C. Asset Investors, Inc. ("MDC Asset Investors"), a publicly held company, owns all the issued and outstanding common stock of Applicant.

2. Applicant will issue one or more series ("Series") of Bonds secured principally by Mortgage Collateral which will consist of (1) mortgage backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (2) Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), (3) Guaranteed Mortgage Pass-Through Certificates issued by the Federal National Mortgage Association ("FNMA Certificates"), (4) certain other mortgage pass through certificates issued by non-governmental or non-government sponsored entities ("Private Mortgage Certificates") ("GNMA Certificates, FHLMC Certificates, FNMA Certificates and Private Mortgage Certificates, collectively "Mortgage Certificates"), (5) conventional mortgage loans, (6) mortgage loans insured by the Federal Housing Adninistration ("FHA") and (7) mortgage loans partially guaranteed by the Veterans Administration ("VA") (conventional mortgage loans, mortgage loans insured by the FHA and the mortgage loans partially guaranteed by the VA, collectively, "Mortgage Loans"). In addition, the Bonds may be secured by funding agreements ("Funding Agreements"), entered into with various limited purpose entities and secured by Mortgage Collateral, pursuant to the terms of an Indenture between Applicant and an independent trustee ("Trustee"), which Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available. The Bonds may also be secured by certain debt service funds, certain reserve funds, insurance policies, servicing agreements and other accounts and instruments described in the prospectus supplement for the relevant Series of Bonds.

3. Applicant will hold no substantial assets other than the Mortgage Collateral, Funding Agreements and cash, may not purchase or otherwise deal in any property other than the Mortgage Collateral and Funding Agreements, and may not issue any debt securities other than the Bonds. The Mortgage Collateral (including the Mortgage Collateral pledged pursuant to Funding Agreements) will have a collateral value at the time of issuance and following each payment date on the Bonds, equal to or greater than the outstanding principal balance of the Bonds. Distributions of principal and interest received on the Mortgage Collateral (including the Mortgage Collateral pledged pursuant to Funding Agreements) securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the Bonds and to retire each class of Bonds by its stated maturity. The Mortgage Collateral and Applicant's entire right, title and interest in the Funding Agreements will be assigned by the Applicant to the Trustee and will be subject to the lien of the related Indenture.

4. The Funding Agreements will be entered into by the Applicant with a limited purpose entity affiliated with a concern engaged in the homebuilding or mortgage lending business or otherwise providing services to builders or lenders ("Participants"). The Participants may be in corporate, trust or limited partnership form and may include affiliates of the Applicant. Each of the Funding Agreements securing a Series of Bonds will provide that (i) Applicant make a loan to each Participant out of the net proceeds of the sale of such Series, such loan to be evidenced by one or more promissory notes ("Notes"); (ii) each such Participant pledge Mortgage Collateral to the Applicant as security for its loan; and (iii) each such Participant be obligated to repay its loan by causing payments on the Mortgage Collateral securing its Notes to be made directly to the Trustee for the Bondholders in amounts sufficient to pay such Participant's share of principal and interest on the Bonds, together with certain of Applicant's administrative expenses. Applicant will in turn assign its entire right, title and interest in such Funding Agreements (other than Applicant's rights to receive fees, to indemnification and to reimbursement as provided for in the Indenture) and in the related Notes and Mortgage Collateral to the Trustee as security for such Series of Bonds.

5. The Indenture provides that no amounts will be released from the lien of the Trustee and paid to the Applicant until the Trustee has made payments of principal and interest then due on the Bonds, satisfied all current administrative expenses, and made any necessary deposits to reserve funds. The scheduled available principal and interest payments on the Mortgage Collateral (including Mortgage Collateral pledged pursuant to a Funding Agreement) with respect to a Series (together with payments from the debt service and reserve funds for such Series, if any), plus income thereon, will be sufficient to make interest payments on the Bonds when due and to amortize the principal of the Bonds by their stated maturities. With certain limited exceptions specified in the application, collateral for a Series of Bonds will not secure any other Series of Bonds, or any other obligations of Applicant.

6. Each Series of Bonds will be secured by a separate collection account for receipt of monthly principal and interest distributions on the Mortgage Collateral ("Collateral Proceeds Account") and may be secured by one or more accounts and funds established in the name of the Trustee. The Trustee is authorized under the Indenture to invest the funds of the Collateral Proceeds Account, and the other funds or accounts relating to a Series of Bonds only in certain eligible investments which are specified in the application. Payments received with respect to the Mortgage Collateral will be reinvested only until the next payment date on the

Bonds and all such investments will mature prior to such date.

7. Applicant may elect to treat the arrangement by which any Series of Bonds is issued as a real estate mortgage investment conduit ("REMIC") pursuant to the Internal Revenue Code of 1986. Such election will have no effect on the level of expenses that would be incurred by Applicant. All administrative fees and expenses in connection with the administration of a REMIC will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds pursuant to one or more of the methods set forth in the application.

8. In addition to the issue and sale of the Bonds, Applicant may sell the residual interests ("Equity Interest") in a REMIC to a limited number, in no event more than 35, of sophisticated institutional and non-institutional investors in transactions exempt from the registration requirements of the Securities Act of 1933 ("1933 Act") under section 4(2) thereof. The offer and sale of such Equity Interests will be subject to Condition D (1–7) below.

Applicant's Legal Conclusion: The requested order is appropriate in the public interest because:

(1) Applicant's activities will promote the public interest by expanding the market for mortgage securities thereby increasing the pool of funds available for mortgage loans and increasing the capacity of mortgage lenders to meet the housing finance needs of the nation; (2) Applicant may be unable to proceed with its proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (3) Applicant should not be deemed to be an entity to which the provisions of the 1940 Act were intended to apply (and Applicant does not concede that it is such an entity); and (4) Applicant's issuance of the Bonds and Equity Interests and its acquisition of the Mortgage Collateral are not the types of activities intended to be regulated by the 1940 Act.

Applicant's Conditions: Applicant expressly consents to the following conditions with respect to the requested order:

A. Conditions Relating to the Mortgage Collateral for the Bonds: (1) Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. The Mortgage Collateral directly securing the Bonds will be limited to GNMA Certificates, FNMA Certificates, FHLMC Certificates, Private Mortgage Certificates, Funding Agreements and Mortgage Loans. The collateral securing a Series in which Equity Interests will be sold will be limited to GNMA Certificates, FNMA Certificates and FHLMC Certificates and Funding Agreements secured by such certificates.

(3) If new Mortgage Collateral is substituted for existing collateral securing a series of Bonds, the substitute Mortgage Collateral will: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flows as the collateral for which it was substituted; (iii) be insured or guaranteed to the same extent as the collateral replaced; (iv) not affect the rating of the Bonds issued by any rating organization and (v) meet the conditions of paragraphs (2) above and (4) and (6) below. New Mortgage Loans may be substituted for Mortgage Loans initially pledged as collateral only in the event of default, late payments or a defect in the collateral being replaced. New Private Mortgage Certificates may be substituted for Private Mortgage Certificates initially pledged only in the event of default, late payment or defect in the collateral being replaced. New Funding Agreements may be substituted for the initial Funding Agreements only if the substitution of the Mortgage Collateral securing such Funding Agreements would be permitted under this condition. In addition, new collateral may not be substituted for more than 20 percent of the aggregate face amount of the Mortgage Loans initially pledged as Mortgage Collateral or for more than 40 percent of the aggregate face amount of the Mortgage Certificates initially pledged as collateral. In no event would any new Mortgage Collateral be substituted for any substitute Mortgage Collateral.

(4) All Mortgage Collateral, Notes, funds, accounts or other collateral securing a Series of Bonds will be held by a Trustee, or on behalf of a Trustee by an independent custodian. Neither the Trustee nor the custodian may be an affiliate (as the term "affiliate" is defined in the 1933 Act, Rule 405, 17 CFR 230.405) of Applicant. The Trustee will be provided with a first priority perfected security or lien interest in and to all collateral securing a Series of Bonds.

(5) Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered redeemable securities within the meaning of section 2(a)(32) of the 1940 Act.

(6) The master servicer of Mortgage Loans (including, for purposes of this paragraph, those underlying Private Mortgage Certificates) securing a Series of Bonds may not be an affiliate of the Trustee. If there is no master servicer for the Mortgage Loans securing a Series of Bonds, no servicer of those Mortgage Loans may be an affiliate of the Trustee. In addition, any master servicer and any servicer of a Mortgage Loan will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of Mortgage Loans shall obligate the servicer to provide substantially the same services with respect to the Mortgage Loans as it is then currently required to provide in connection with the servicing of mortgage loans insured by FHA, guaranteed by VA or eligible for purchase by FNMA or FHLMC.

(7) No less often than annually, an independent public accountant will audit the books and records of the Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the collateral securing each Series of Bonds continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion of the auditor's report(s), copies will be provided to the Trustee.

B. Conditions Relating to Floating Rate Bonds: (1) Each Class of Floating Rate Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period as specified in the related prospectus.

(2) The Mortgage Collateral initially pledged to secure a Series of Bonds, including a Series of Bonds containing a class or classes of adjustable or Floating Rate Bonds, will be sufficient to pay the maximum amount of interest and principal due on such Bonds for the life of such Bonds.[1]

[1] In the case of a series of Bonds containing a class or classes of adjustable or Floating Rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the adjustable or Floating Rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the adjustable or Floating Rate Bonds; (ii) "inverse" Floating Rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" Floating Rate Bonds); (iii) floating rate collateral (such as FNMA adjustable rate certificates) to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a

Continued

C. Conditions Relating to REMIC Election: (1) The election by Applicant to treat the arrangement by which any Series of Bonds is issued as a REMIC will have no effect on the level of the expenses that would be incurred by the Applicant. If such an election is made, the Applicant will provide that all administrative fees and expenses in connection with the administration of the REMIC will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. The Applicant will provide for the payment of administrative fees and expenses in connection with the issuance of the Bonds and the administration of the REMIC by one or more of the methods set forth in the application.

(2) Applicant will ensure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods (which methods may be used in combination) are selected by the Applicant to provide for the payment of such fees and expenses.

D. Conditions Relating to the Sale of Equity Interests: (1) Applicant will sell Equity Interests only in a Series of Bonds collateralized by GNMA, FNMA and FHLMC certificates or Funding Agreements secured by such certificates. Equity Interest will be offered and sold only to no more than 35 (i) institutional investors or (ii) non-institutional investors which are "accredited investors" as defined in Rule 501(a) of the 1933 Act. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Equity Interests and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 15, be required to purchase at least $200,000 of such Equity Interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage related securities, as to be able to evaluate the risk of purchasing an Equity Interest and will have direct, personal and significant experience in making investments in mortgage related securities and residual interests therein. Owners of Equity Interests will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, real estate investment trusts or other institutional or non-institutional investors as described above which customarily engage in the purchase of mortgages and "mortgage related securities.

(2) Each sale of an Equity Interest will qualify as a transaction not involving any public offering within the meaning of section 4(2) of the 1933 Act.

(3) Each sale of an Equity Interest will prohibit the transfer of such Equity Interest if there would be more than 35 beneficial owners of Equity Interests of any REMIC at any time.

(4) Each sale of an Equity Interest will require each purchaser thereof to represent that it is purchasing for investment and not for distribution and that it will hold such Equity Interest in its own name and not as nominee for undisclosed investors.

(5) Each sale of an Equity Interest will provide that (i) no owner of such Equity Interest may be affiliated with the Trustee and (ii) no holder of an Equity Interest may be affiliated with either the custodian of the Mortgage Collateral or the agency rating the Bonds of the relevant Series.

(6) No holder of a controlling interest in the Applicant (as the term "control" is defined in Rule 405 under the 1933 Act) will be affiliated with either (a) any custodian which may hold the Mortgage Collateral on behalf of the Trustee or (b) any statistical rating agency rating the Bonds.

(7) If any shares of the common stock of Applicant were to be sold and such sale results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of Applicant, the relief afforded by any SEC order granted on the application would not apply to subsequent Bond offerings by Applicant.

stated principal amount, such as the principal amount of the Bonds in the floating rate class, in exchange for receiving corresponding periodic payments from the counterparty at a floating rate of interest based on the same principal amount; and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the floating rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Staff of the SEC notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond-rating categories, and no Bonds will be issued for which this is not the case.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25084 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16071; 812-6841]

Mitsubishi Bank of Canada; Application

October 23, 1987.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Mitsubishi Bank of Canada ("Mitsubishi Canada" or "Applicant").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order exempting it from all provisions of the 1940 Act in connection with the issuance and sale of its U.S. dollar denominated certificates of deposit and other debt securities in the United States ("Securities"). Payment of principal and interest on the Securities will be unconditionally guaranteed by The Mitsubishi Bank, Limited, New York Branch ("Mitsubishi New York"), or The Mitsubishi Bank, Limited ("Mitsubishi").

Filing Date: The application was filed on August 20, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Mitsubishi Bank of Canada, c/o Peter Figdor, Esq., Marks Murase & White, 400 Park Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272-3046, or Curtis R. Hilliard, Special Counsel, (202) 272-3030 (Division of

Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Mitsubishi Bank of Canada is a Canadian chartered bank constituted and licensed under the Bank Act, S.C. 1980, chap. 40 (the "Canadian Bank Act"), that commenced operation as a foreign bank subsidiary under the Canadian Bank Act on May 27, 1982. All of Mitsubishi Canada's outstanding capital stock, currently consisting of 300,000 shares of common stock, is owned by Mitsubishi.

2. Mitsubishi Canada offers commercial banking services through its registered offices in Vancouver and Toronto, including short and medium term commercial lending; deposit-taking; investing in commercial paper, bank instruments and government obligations; discounting trade bills; issuing letters of credit; and foreign exchange trading. As of October 31, 1986, its total assets were equivalent to approximately U.S. $396,500,000, with authorized capital stock consisting of 400,000 shares of Can. $100-par value common stock and paid up capital of Can. $30,000,000.

3. As a Canadian bank chartered under the Canadian Bank Act, various aspects of Mitsubishi Canada's business, including, deposit reserves and insurance, permissible powers, asset size and dividend policy, are subject to regulation under the Canadian Bank Act and the Canada Deposit Insurance Corporation Act, as amended. The Canadian Inspector General of Banks (the "Inspector General") is responsible generally for the administration of the Canadian Bank Act and more particularly for the day-to-day regulation of Canadian banks to ensure compliance with Canadian banking law. Canadian banks are required to file with the Inspector General, and publish annual statements in prescribed form comprised of statements of assets and liabilities, income, appropriations for contingencies and changes in shareholders' equity of the bank together with a report of the bank's auditors thereon. The Inspector General is permitted to examine the Applicant as often as it is deemed necessary or expedient, and in no event less than once a year, and the Inspector General has power to issue subpoenas and similar processes compelling attendance of any person to give testimony in respect of any matter under investigation and to produce documents, books and papers under such person's control. The Canadian Bank Act also governs matters such as liquidity requirements.

4. Mitsubishi ranked as the 4th largest bank in the free world in terms of deposits as of December 31, 1985. As of March 31, 1986, Mitsubishi had worldwide assets equivalent to approximately U.S. $169.8 billion, worldwide deposits equivalent to approximately U.S. $121.0 billion, worldwide customer loans and bills discounted equivalent to approximately U.S. $68.5 billion, and total stockholders' equity equivalent to approximately U.S. $3.5 billion.

5. Mitsubishi is presently engaged in the conduct of a commercial banking business in Japan, which includes receiving deposits, making loans, discounts and security investments, conducting domestic and foreign exchange transactions, and performing such other related services as safekeeping, money exchange collections and issuing guarantees, acceptances and letters of credit. Mitsubishi engages in banking activities through 227 domestic branches which are located throughout Japan. In addition, Mitsubishi maintains branches, agencies and representative offices in 21 other countries as well as banking and finance subsidiaries in 11 other countries.

6. Mitsubishi is extensively regulated under Japanese banking laws and the regulations promulgated thereunder. The Japanese Ministry of Finance audits Mitsubishi once every two or three years and the Bank of Japan conducts field checks once every two or three years. The Japanese Ministry of Finance supervises the lending ratios and lending limits of Japanese banks. In addition, the Japanese Ministry of Finance exercises supervisory control over Japanese banks by reason of the necessity of obtaining the approval of the Japanese Ministry of Finance with respect to such matters as the establishment of additional offices, reductions in capital, mergers, liquidations or discontinuations of business. The Japanese Ministry of Finance also has the authority to instruct Japanese banks to remove directors to direct a Japanese bank to submit certain property to be held for the protection of depositors or to issue such other orders as may be deemed necessary.

7. Mitsubishi has been licensed by the New York State Superintendent of Banks to maintain a branch office in New York State since May 1977 and, under its present branch license, Mitsubishi New York is authorized to engage in "the business of buying, selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans, or of receiving deposits."

8. Mitsubishi New York, as a New York branch of a foreign bank, is subject to extensive Federal and New York State regulation. It must maintain daily records of assets and liabilities that are payable at or through Mitsubishi New York. Its loans, purchases and discounts of notes, bills of exchange, bonds, debentures and other obligations and extensions of credit and acceptances are subject to the same limitations as to amount in relation to the capital stock, surplus fund and undivided profits of Mitsubishi as are applicable to New York State banks and trust companies. In addition, Mitsubishi must maintain on deposit with a bank, trust company, private banker or national bank which it has selected, assets the aggregate value of which is equal to 5% of the total liabilities of its New York branch (excluding liabilities owed to other offices and subsidiaries of Mitsubishi). Mitsubishi New York is also subject to regulation under the International Banking Act of 1978.

9. Securities to be publicly offered by Mitsubishi Canada in the United States will be sold in minimum denominations of U.S. $100,000 through major dealers and will be sold only to institutional and other sophisticated investors. The Securities will not include any provision for extension, renewal or automatic rollover.

10. Payment of principal of, and interest on, the Securities will be unconditionally guaranteed by Mitsubishi New York or, provided that Mitsubishi shall have obtained an order of the Commission pursuant to section 6(c) of the 1940 Act exempting it from all the provisions of the 1940 Act in connection with the issuance of such guarantees, by Mitsubishi. Consequently, holders of the Securities will look to Mitsubishi New York or Mitsubishi, as the case may be, as the ultimate-obligor. The Securities will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and Mitsubishi Canada undertakes that, prior to the issuance of any Securities, its United

States counsel shall have certified that such rating has been received and is in effect as of such time. The Securities will rank *pari passu* among themselves, and the guarantees in respect thereof will rank *pari passu* among themselves; the Securities will rank equally with all other unsecured and unsubordinated indebtedness of Mitsubishi Canada (except to the extent such indebtedness is preferred by operation of law) including deposit liabilities, and superior to rights of shareholders; and the guarantees of the Securities will rank equally with all other unsecured indebtedness of Mitsubishi New York or Mitsubishi, as the case may be (except to the extent such indebtedness is preferred by operation of law), including deposit liabilities, and superior to rights of shareholders.

11. Any offering in the United States of Securities will be made only pursuant to a registration statement under the Securities Act of 1933 ("1933 Act"), or pursuant to an applicable exemption from the registration requirements of the 1933 Act. Any such offering will be done on the basis of disclosure documents that are appropriate and customary for such registration or exemption, and in any event at least as comprehensive as those used in offerings of similar securities in the United States by United States issuers, and which include a memorandum describing the business of Mitsubishi and Mitsubishi Canada and containing the most recent publicly available annual financial statements of Mitsubishi and Mitsubishi Canada (including a balance sheet and income statement), audited in accordance with Japanese and Canadian accounting principles, respectively. Such memorandum will include brief paragraphs highlighting the material differences between generally accepted accounting principles applicable to United States banks and (i) Japanese accounting principles applicable to Japanese banks and used by Mitsubishi and (ii) Canadian accounting principles applicable to Canadian banks and used by Mitsubishi Canada. Such memorandum will be updated promptly to reflect material changes in the business and financial condition of Mitsubishi or Mitsubishi Canada. Such disclosure documents will be provided to each offeree who has indicated an interest in purchasing Securities prior to any sale of such Securities to such offeree; except that, in the case of an offering being made pursuant to a registration under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be required by the 1933 Act.

12. In connection with any offering of Securities in the United States, Mitsubishi Canada will expressly accept the jurisdiction of any State or Federal court in the city and State of New York in respect of any action based on such Securities. Further, it will appoint an agent located in the city and State of New York (which may be Mitsubishi New York) to accept any process which may be served in any such action. Such consent to jurisdiction and appointment of an agent for service of process will be irrevocable so long as such Securities remain outstanding and until all amounts due and to become due in respect of such Securities have been paid.

13. Mitsubishi Canada will not offer any Security unless: (1) It shall have registered such Security pursuant to the 1933 Act, or (ii) if it offers such Security without registration pursuant to an applicable exemption from registration under the 1933 Act, either (x) it shall have received an opinion of its United States legal counsel to the effect that, under the circumstances of the proposed offering, such security will be entitled to an exemption provided under the 1933 Act, or (y) the Staff of the Commission shall have stated in writing that it will not recommend enforcement action to the Commission under the circumstances of the proposed offering or the Commission shall have issued a policy statement indicating that an offering of securities under circumstances substantially similar to that of the proposed offering will not be the subject of an enforcement action.

14. Mitsubishi Canada will not offer any security: (i) In the case of any security to be guaranteed by Mitsubishi New York, unless it shall receive an opinion of Japanese legal counsel to Mitsubishi to the effect that the obligation of Mitsubishi New York pursuant to such guarantee also constitutes the legal, valid and binding obligation of Mitsubishi enforceable against Mitsubishi in accordance with its terms, and (ii) in the case of any Security to be guaranteed by Mitsubishi unless Mitsubishi shall have obtained an order of the Commission pursuant to section 6(c) of the 1940 Act exempting it from all the provisions of the 1940 Act in connection with the issuance of such guarantee.

Applicant's Conditions

Mitsubishi Canada consents to any order issued pursuant to section 6(c) of the 1940 Act granting the relief requested being expressly conditioned upon its compliance with the representations and undertakings set forth in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25056 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16076; (812-6753)]

Application for Exemption; Skandia International Holding AB

Dated: October 23, 1987.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Skandia International Holding AB.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order granting exemption from all provisions of the 1940 Act in connection with the offer and sale of its equity and debt securities in the United States.

Filing Dates: The application was filed on June 8, 1987, and amended on September 15 and October 21, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on November 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Courtland W. Troutman, Esq., Cadwalader, Wickersham & Taft, 100 Maiden Lane, New York, New York 10038.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272-3033, or Brion R. Thompson, Special Counsel (202) 272-3016.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the

SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a holding company engaged through its operating subsidiaries (collectively, the "SIHAB Group") in providing insurance services, both direct and reinsurance, in the international market. Applicant is incorporated in Sweden and companies of the SIHAB Group are incorporated in Sweden, the United States, the United Kingdom, Colombia and other nations.

2. The SIHAB Group's operations are divided into four categories: Non-life Insurance in the United States, Non-life Insurance Outside the United States, International Life Insurance and Capital Management. Companies of the SIHAB Group are subject to extensive regulation by American, Swedish, British and other insurance regulatory authorities. American and British regulated operations accounted for approximately 48.5% of gross premium income of the SIHAB Group in 1986. Since Skandia International Insurance Corporation ("SIIC"), a Swedish insurance company, is the parent company of all operating insurance companies of the SIHAB Group, the insurance activities of the entire SIHAB Group are subject, directly or indirectly, to the supervision of the Swedish insurance authorities.

3. Swedish insurance companies are subject to extensive regulation which includes licensing, financial and reporting requirements and direct supervision by regulatory authorities. The insurance regulatory system in Sweden is supervised by the Private Insurance Supervisory Service, an official agency of the Swedish Government, under the Swedish Insurance Business Act of 1982.

4. Skandia America Reinsurance Corporation ("SARC") is the principal operating company of the Skandia America Group, which conducts Applicant's U.S. reinsurance operations. SARC is licensed by the Delaware Insurance Department and is licensed or authorized to reinsure in thirty-six states and by the U.S. Treasury Department. SARC also files holding company registration statements in accordance with the Delaware Insurance Holding Company Act.

5. Applicant intends to offer and sell its debt and equity securities in the United States. Applicant presently contemplates issuing, through a firm commitment underwritten public offering, American Depositary Shares ("ADSs") in the form of American Depositary Receipts, representing Series A shares of the Applicant. This offering of ADSs will be registered pursuant to the Securities Act of 1933 ("1933 Act"). Future offers and sales of any other equity or debt securities of Applicant will either be: (a) Pursuant to a firm commitment or best efforts underwritten public offering registered under the 1933 Act, (b) pursuant to an exemption from the registration requirements of the 1933 Act which, in the opinion of U.S. counsel to Applicant, is available to Applicant with respect to such offers and sales or (c) pursuant to the advice of the staff of the SEC that it would not recommend that the SEC take any action if such offers and sales are made without registering such securities under the 1933 Act.

6. Applicant undertakes that any future offering oif its equity or debt securities in the United States will be made on the basis of disclosure documents which are appropriate and customary for such offering, whether made pursuant to a registration statement under the 1933 Act or an exemption therefrom. In any offering of its securities made pursuant to a registration statement filed under the 1933 Act, Applicant will not sell such securities until such registration statement is declared effective by the SEC and the related indenture, if any, is qualified under the Trust Indenture Act of 1939. Applicant will furnish a prospectus to such persons and in such manner as may be required by the 1933 Act.

7. Any offering in the United States by Applicant of securities not registered under the 1933 Act will be made on the basis of disclosure documents which are at least as comprehensive as is customary in the United States for such an offering and will include Applicant's most recently available audited fiscal year-end balance sheet and profit and loss statement together with a description of any material differences between the accounting principles applied in the preparation of such financial statements and generally accepted accounting principles utilized in the United States, and such disclosure documents will be updated promptly to reflect material changes in the financial condition of Applicant. Any debt securities offered by Applicant in the United States and not registered under the 1933 Act will be sold only to "accredited investors" (as defined in Regulation D under the 1933 Act) who are able to understand and evaluate the risks of their investment and other institutional investors. Further, any offering by Applicant in the United States of debt securities shall have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally-recognized statistical rating organization and Applicant's special legal counsel in the United States shall have received evidence of the receipt of such rating; however, no such rating need be obtained with respect to any such offering if, in the opinion of such special legal counsel, an exemption from registration is available under section 4(2) of the 1933 Act. Moreover, any debt securities issued by Applicant will rank equally among themselves and equally with all other unsecured, unsubordinated indebtedness of Applicant and prior to any subordinated indebtedness of Applicant and Applicant's capital stock.

8. Applicant also undertakes, in connection with any offering in the United States of its securities, to appoint a United States person as agent to accept any process which may be served in any action based on the offer and sale of such securities and instituted in any state or federal court by the holder of such securities. Applicant further undertakes that it will expressly accept the jurisdiction of any state or Federal court in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long as such securities remain outstanding. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such securities or otherwise.

9. With regard to public offerings of securities (not either registered under the 1933 Act or exempt from registration by virtue of section 3(a)(3) or section 4(2) thereof) that are not issued in the United States or sold to U.S. persons (but where there is a reasonable likelihood of offers or sales of such securities being made in the United States or to U.S. persons), Applicant will adopt agreements and procedures reasonably designed to prevent such 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).

10. Applicant, through its subsidiaries, has a significant presence in the United States. Applicant undertakes that it will only issue equity securities in the United States as long as it has significant U.S. insurance subsidiaries which are regulated as insurance companies in the United States. Applicant intends to maintain its insurance operations in the United States, however, if such operations in the future are curtailed with the result that Applicant's

insurance subsidiaries are no longer regulated as insurance companies in the United States, Applicant agrees that it will continue to comply with its undertakings concerning appointment of an agent and submission to jurisdiction, as set forth above, until such time as there shall be no holders in the United States of securities of the Applicant issued in reliance upon any SEC order issued pursuant to the application. Applicant also represents that it intends to maintain significant insurance subsidiaries in Sweden and the United Kingdom which are regulated as insurance companies in those countries.

Applicant's Legal Conclusions

Applicant states that the requested exemption is necessary or appropriate in the public interest because, absent such exemption, Applicant will be effectively precluded from selling its securities in the United States, thus denying a valuable investment opportunity to United States investors. Applicant also states that such exemption is consistent with the protection of investors because such investors will have the protections afforded by the extensive regulation to which Applicant's operations are subjected by United States, Swedish, United Kingdom and other insurance authorities. Finally, Applicant asserts that the exemption is consistent with the purposes of the 1940 Act because insurance companies, such as Applicant, are not within the intended purview of the 1940 Act.

Condition to Order

Applicant consents to any SEC order being expressly conditioned on its compliance with the undertakings and representations contained in the application.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25057 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16079; 812-6812]

Application; The Tokai Bank, Ltd.

October 23, 1987.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: The Tokai Bank, Limited.

Relevant 1940 Act Section: Exemption requested under section 6(c) from all provisions.

Summary of Application: Applicant seeks an order permitting it to issue and sell its Debt Obligations (as herein defined) in the United States either directly or through one or more of its overseas branches.

Filing Date: The application was filed on August 5, 1987, and amended on October 23, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Tokai Bank, Limited, c/o Harold S. Nathan, Esq., Winthrop, Stimson, Putnam & Roberts, 40 Wall Street, New York, N.Y. 10005.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2190 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier which can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations: 1. Applicant was established as a bank under the laws of Japan in 1941. As of March 31, 1987, it had assets in excess of $167 billion (based on an exchange rate on March 31, 1987 of U.S. $1.00 to (Japanese yen) Y145.85).

2. Applicant conducts a commercial banking business throughout Japan. It also engages in banking activities through branches,[1] agencies and representative offices in several other countries, including branches in New York and Chicago, an agency in Los Angeles and representative offices in Dallas, Lexington and Atlanta, and through banking subsidiaries in several countries, including Tokai Bank of California (a California banking organization).

3. Applicant is extensively regulated under Japanese banking laws which provide for examinations every two or three years, impose reserve requirements, and require the submission of reports concerning the Applicant's business or financial condition. Applicant is also subject to audits and participates in the deposit insurance system. Further, the Applicant is subject to the Bank Holding Company Act of 1956 and the International Banking Act of 1978. Applicant's New York branch ("Tokai New York") is subject to extensive regulation under the Federal Reserve System and the New York State Banking Department. Such regulation includes reserve and reporting requirements and pledges of assets to cover a fixed percentage of liabilities.

4. Applicant proposes to offer in the United States dollar-denominated certificates of deposit and debt securities (the "Debt Obligations") issued directly or through one or more of its overseas branches located outside the United States. The Debt Obligations will be offered and sold through one or more certificate of deposit dealers to institutions and other sophisticated investors which usually purchase similar instruments. Proceeds of the offerings will be used for current transactions by the Applicant and its branches.[2]

5. The Debt Obligations will be sold in minimum denominations of $100,000. Payment of principal of, and interest on, certain Debt Obligations will be unconditionally guaranteed by Tokai New York. The Debt Obligations guaranteed by Tokai New York will rank *pari passu* among themselves, will rank equally with all other unsubordinated and unsecured indebtedness of Tokai New York (except to the extent such indebtedness

[1] Applicant's branches are located in the Cayman Islands, Federal Republic of Germany, Hong Kong, the Republic of Korea, Singapore, the United Kingdom and the United States.

[2] The selection by the Applicant of any overseas branch to issue and sell the Debt Obligations will be based on a number of factors including, but not limited to, the funding needs and the cost of issuing through the branch, and the reserve requirements applicable to such offering under the laws of the jurisdiction of the branch's domicile. The proceeds of an offering by Applicant through an overseas branch will not necessarily be used by such branch but may be used by the Applicant or any of its other overseas branches for the above-described banking purposes.

is preferred by operation of law), and will constitute the legal, valid and binding obligation of Tokai New York and Applicant. The Debt Obligations will rank *pari passu* among themselves and will rank equally with all other unsubordinated and unsecured indebtedness of the Applicant (except to the extent such indebtedness is preferred by operation of law).

Applicant's Legal Conclusions: The requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. The types of abusive practices which led to adoption of the 1940 Act are not applicable to the Applicant because they are either precluded by the banking regulations to which it is subject or not possible in the context of its business. Further, the Applicant, as a bank, is not the type of entity intended to be regulated by the 1940 Act.

Applicant's Conditions: If the requested order is granted, Applicant agrees to the following conditions:

1. Applicant undertakes not to (a) offer any Debt Obligations unless they shall be registered pursuant to the Securities Act of 1933 ("1933 Act"); or (b) offer such Debt Obligations without registration pursuant to an applicable 1933 Act exemption unless (i) the Applicant shall have received an opinion of its United States legal counsel that the Debt Obligations will be entitled to an exemption under the 1933 Act, or (ii) the staff of the SEC shall have stated in writing that it will not recommend enforcement action to the SEC under the circumstances of the proposed offering.

2. Applicant undertakes that it will not offer any Debt Obligations through any of its overseas branches unless it shall have received an opinion of its Japanese legal counsel to the effect that the obligation of such branch also constitutes the legal, valid and binding obligation of the Applicant under the laws of Japan.

3. Applicant undertakes that, prior to issuance, the Debt Obligations will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and its United States legal counsel shall have certified that such a rating is in effect; provided, however, that no such rating will be obtained if such counsel, having considered the doctrine of integration under Rule 502 of the 1933 Act, is of the opinion that an exemption from registration is available under section 4(2) of the 1933 Act or Regulation D thereunder.

4. Applicant undertakes to ensure that each offeree of the Debt Obligations receives, prior to purchase of any of the Debt Obligations, a memorandum which (i) describes the business of Applicant and Tokai New York, and (ii) includes the Applicant's most recent publicly available annual financial statements, audited in accordance with Japanese accounting principles, and its most recent publicly available unaudited interim financial statements. The memorandum will describe any material differences between accounting principles applied in the preparation of such audited financial statements and "generally accepted accounting principles" applicable to United States banks, and will be at least as comprehensive as those customarily used in similar offerings in the United States. The memorandum will be promptly updated as necessary to reflect material changes in the Applicant's business or financial condition. Applicant understands that an inadvertent failure by a dealer to provide an offeree of the Debt Obligations with the type of memorandum described herein would not be viewed as a violation of its undertaking to furnish such a memorandum.

5. Applicant also undertakes that it will appoint an agent for service of process in New York City for any action arising out of the sale of the Debt Obligations and will consent to the jurisdiction of any state or federal court located in New York City in respect of any such action. Such appointment of an agent and consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Debt Obligations have been paid. Further, the Applicant and Tokai New York will be subject to suit in any other court in the United States which would have jurisdiction because of the offering of the Debt Obligations.

6. Any future offerings of Debt Obligations by the Applicant pursuant to the order sought herein will be conducted in accordance with the representations, and in compliance with the undertakings, set forth herein and more fully in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-25085 Filed 10-28-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-16404]

Application and Opportunity for Hearing: Union Carbide Corp.

October 23, 1987.

Notice is hereby given that Union Carbide Corporation, a New York Corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(i) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Manufacturers Hanover Trust Company ("Manufacturers") under the indentures set forth below, which have been qualified under the Act, and the trusteeship of Manufacturers under an indenture dated as of April 15, 1987 is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under the aforementioned indentures.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor.

In support of its application, the Company states as follows:

1. The Company has entered into an indenture with Manufacturers as trustee, dated as of January 1, 1986 as supplemented by a First Supplemental Indenture dated as of June 9, 1986, and a Second Supplemental Indenture dated as of December 10, 1986, which was qualified under the Act pursuant to an application on Form T-3 filed with the Commission (File No. 22-14590), pursuant to which were issued thereunder: (a) 13¼% Senior Notes due January 31, 1986; and (c) 15% Debentures Due 2005, some of which are presently outstanding.

2. The Company has entered into an indenture with Manufacturers as trustee, dated as of August 15, 1979, which was qualified under the Act, and filed with the Commission as an Exhibit to the Registration Statement (Registration No. 2-651114) pursuant to which 9.35% Debentures Due 2009, some of which are presently outstanding, were issued.

3. The Company entered into an indenture, with Morgan Guaranty Trust Company, under which Manufacturers is successor trustee, dated as of January 15, 1975, which was qualified under the Act, and filed with the Commission as an Exhibit to the Registration Statement (Registration No. 2–5246), pursuant to which 8½% Debentures Due 2005, some of which are presently outstanding, were issued.

4. The Company has entered into an indenture, dated as of December 1, 1986, with Manufacturers as trustee, which was offered through a private placement and was not qualified under the Act pursuant to which $200,000,000 principal amount of the Company's 8.60% Senior Notes due December 15, 1989, and 9.10% Senior Notes due December 15, 1990 were issued. Pursuant to the terms of the certain Notes Purchase Agreements between the Company and the purchasers of said Notes, the Company will file with the Commission a registration statement on Form S–3 under the Securities Act of 1933, and if such registration is effected, the Company is required to qualify simultaneously said indenture under the Act.

5. The Company has entered into an indenture, dated as of April 15, 1987 with Manufacturers as trustee, which will initially not be qualified under the Act, pursuant to which $150,000,000 principal amount of the Company's 9.35% Senior Notes due April 15, 1992, were issued. Pursuant to the terms of certain Note Purchase Agreements between the Company and the purchasers of said Notes, the Company has covenanted to prepare and file with the Commission within 90 days of issuance a registration statement for said Notes, and if such registration is effected, the Company is required to qualify simultaneously said indenture under the Act.

6. The Company is not in default under any of the aforementioned indentures. The Company's obligations under all such indentures are wholly unsecured and unsubordinated.

7. The provisions of all the aforementioned indentures are not so likely to involve a material conflict of interest as to make necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as Trustee under any of said indentures.

8. The Company has waived notice of hearing and any and all rights to specify procedures under the Rules of Practices of the Commission in connection with the matters, referred to herein.

9. The Securities are unsecured obligations of the Company and are pari passu. For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document (File No. 22–17289) on file in the offices of the Commission at the Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than November 16, 1987, request in writing that a hearing be held on the matter, stating the nature of his interest, the reasons for such request, and the issues of law and fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–25087 Filed 10–28–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region VI Advisory Council Meeting; Little Rock, AR

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical are of Little Rock, will hold a public meeting at 10:30 a.m. on Tuesday, November 17, 1987, at the Radisson Legacy Hotel, 625 West Capitol Avenue, Little Rock, Arkansas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call Donald L. Libbey, District Director, U.S. Small Business Administration, 320 West Capitol Avenue, Little Rock, Arkansas 72201, (501) 378–5871.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 20, 1987.

[FR Doc. 87–24993 Filed 10–28–87; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council Meeting; San Diego, CA

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of San Diego, will hold a public meeting at 10:00 a.m. on Tuesday, November 10, 1987, in the Federal Building, 880 Front Street, San Diego, California, 92188, Room 2–S–14, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call George P. Chandler, Jr., District Director, U.S. Small Business Administration, 880 Front Street, Room 4–S–29, San Diego, California, 92188, (619) 557–7252.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 20, 1987.

[FR Doc. 87–24994 Filed 10–28–87; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council Meeting; Augusta, ME

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 9:30 a.m. on Tuesday, November 10, 1987, at Hazel Green's Restaurant, 349 Water Street, Augusta, Maine, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call Leroy Perry, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine, (207) 622–8275.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 20, 1987.

[FR Doc. 87–24995 Filed 10–28–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[CM–8/1130]

Shipping Coordinating Committee; National Committee for the Prevention of Marine Pollution; Meeting

The National Committee for the Prevention of Marine Pollution (NCPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on November 24, 1987, at 9:30 am in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the twenty-fifth session of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC) scheduled for November 30–December 4, 1987. Proposed U.S. positions on MEPC agenda item issues will be discussed.

The major items for discussion will be the following:

1. Consideration to ratification and implementation of Optional Annexes III, IV and V of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). There are two principal issues. First, the U.S. initiative to implement Annex III (Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form) provisions through the International Maritime Dangerous Goods Code (IMDG Code). Specifically, the U.S. compromise proposal on selection criteria for identification of marine pollutants under Annex III. Second, the U.S. prepared draft Guidelines for the Implementation of Annex V (Regulations for the Prevention of Pollution by Garbage from Ships) of MARPOL 73/78. Progress towards U.S. ratification of Annex V will also be discussed.

2. Implementation of Annex II (Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk) of MARPOL 73/78. Specifically, the termination of the interim enforcement measures, and implementation of new requirements for chemicals whch have been assigned to different pollution categories.

3. Uniform interpretations of Annex I (Regulations for the Prevention of Pollution by Oil) of MARPOL 73/78. Specifically, the desirability of the specifications for oily-water separating and monitoring equipment, and the discharge of clean ballast from tankers operating under an oil discharge monitoring and control system waiver.

4. Criteria for particularly sensitive areas including the development of guidelines for designating Special Areas under Annexes I, II and V of MARPOL 73/78.

5. Enforcement of pollution conventions.

6. Environmental considerations regarding the removal of offshore platforms/structures.

7. Inter-related work of other Committees and Subcommittees.

Members of the public may attend this meeting up to the seating capacity of the room.

For further information or documentation pertaining to the NCPMP meeting, contact either Commander D.B. Pascoe or Lieutenant G.T. Jones, U.S. Coast Guard Headquarters (G–MER–3), 2100 Second Street, SW., Washington, DC 20593–0001, Telephone: (202) 267–0419.

Dated: October 22, 1987.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87–25009 Filed 10–28–87; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/1129]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee will conduct an open meeting on 19 November 1987 at 0930 in Room 4315 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of the meeting is to consider the U.S. position for the 3rd Session of the International Maritime Organization (IMO)/United Nations Conference on Trade and Development (UNCTAD) Joint Intergovernmental Group of Experts (JIGE) on Maritime Liens and Mortgages and Related Subjects.

The JIGE was established by IMO and UNCTAD pursuant to the recommendation contained in Resolution 6 of the 11th Session of the UNCTAD Working Group on International Shipping Legislation. As endorsed by the Council of IMO and the UNCTAD Trade and Development Board, the proposal called for meeting alternately in Geneva and London during scheduled meeting times of the IMO Legal Committee and the UNCTAD Working Group on International Shipping Legislation.

The JIGE is tasked with conducting a broad examination of the subject of maritime liens and mortgages, with consideration to be given to:

1. The revision of the various maritime liens and mortgages Conventions;

2. The preparation of model laws or guidelines on maritime liens, mortgages and related enforcement procedures, such as arrest; and

3. The feasibility of an international registry of maritime liens and mortgages.

IMO and UNCTAD have identified the following major objectives as deserving of priority consideration in any investigations regarding possible international action on maritime liens and mortgages:

1. To encourge ship financing by affording appropriate protection to persons providing finance;

2. To afford protection in respect of settled claims;

3. To encourage the provision of services to ships;

4. To protect the ship against multiple actions; and

5. To minimize the potential encumbrances to ship operation.

The JIGE held its 1st Session in Geneva on 1–12 December 1986. The principal outcome of the meeting was the adoption of joint procedural rules; the substantive work undertaken was an exploratory discussion of the major issues and objectives noted above. This discussion reveled strong interest in studying the present international framework and considering substantial revisions that would both promote uniformity and favor the mortgagee. As a preliminary matter, a number of participants questioned the nature and extent of the perceived need to improve the availability of vessel financing.

The 2nd Session of the JIGE was held in London from 11–15 May 1987. The JIGE participants adopted the 1967 Brussels Convention on Maritime Liens and Mortgages as the preliminary discussion text and prepared a new convention draft. The provisions of the tentative draft reflect the consensus view that the number and scope of the maritime liens preferred to the mortgage should be curtailed in order to enhance the ship mortgagee's security.

The 3rd Session of the JIGE is scheduled to be held in Geneva from 30 November–11 December 1987. It is expected that the principal focus of work will be a detailed review of the convention draft prepared at the 2nd Session.

Members of the public are invited to attend the meeting, up to the seating capacity of the room.

For further information pertaining to the issues to be discussed at the Shipping Coordinating Committee meeting, contact either Captain Frederick F. Burgess, Jr. or Lieutenant Commander Frederick M. Rosa, Jr., U.S. Coast Guard (G–LMI), Washington, DC, 20593, telephone (202) 267–1527.

Dated: October 19, 1987.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87–25010 Filed 10–28–87; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program; Medford-Jackson County Airport, Medford, OR

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announced its findings on the noise compatibility program submitted by Jackson County under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980). On March 20, 1987, the FAA determined that the noise exposure maps submitted by the Airport Board under Part 150 were in compliance with applicable requirements. On September 3, 1987, the Administrator approved the Medford-Jackson County Airport noise compatibility program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Medford-Jackson County Airport noise compatibility program is September 3, 1987.

FOR FURTHER INFORMATION CONTACT: Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region; Airports Division, ANM–611; 17900 Pacific Highway South; C–68966; Seattle, Washington 98168. Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Medford-Jackson County Airport, effective September 3, 1987.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act") an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability or unacceptability of that land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Seattle, Washington.

The county submitted to the FAA noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted at Medford-Jackson County Airport. The Medford-Jackson County Airport noise exposure maps were determined by the FAA to be in compliance with applicable requirements on March 20, 1987. Notice of this determination was published in the **Federal Register** on March 31, 1987.

The Medford-Jackson County Airport noise compatibility study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on March 20, 1987, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 13 proposed actions for noise mitigation on and off the airport and for review and monitoring of the program. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 3, 1987.

Outright approval was granted on 12 elements. Element A.4 was disapproved pending submission of more detailed information regarding anticipated noise reduction benefits. Part b of element B.5 was disapproved because parcel (VI) lays outside of the Ldn 65 noise contour and is already considered compatible with noise levels under Federal guidelines.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 3, 1987. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Medford-Jackson County Airport.

Issued in Seattle, Washington on September 25, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-24972 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

Petition for Exemption, Summary of Petitions Received Dispositions of Petitions Issued; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Correction of comment close date; year.

SUMMARY: This notice corrects the (year) in the Date section previously published in the **Federal Register** October 8, 1987, (52 FR 37699) for a Petition for Exemption, Docket No. PE-87-25. Please correct the year 1988 as published to read 1987.

Debbie King,

Acting Manager, Program Management Staff.

[FR Doc. 87-24989 Filed 10-28-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 23, 1987.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0619
Form Number: IRS Form 6765
Type of Review: Resubmission
Title: Credit for Increasing Research Activities (or for Claiming the Orphan Drug Credit)
Description: Internal Revenue Code section 38 allows a credit against income tax for an increase in research activities of a trade or business. Section 28 allows a credit for clinical testing expenses in connection with drugs for certain rare diseases. Form 6765 is used by businesses and individuals engaged in a trade or business to figure and report the credit. The data is used to verify that the credit claimed is correct.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 19,619 hours

OMB Number: 1545-0901
Form Number: IRS Form 1098
Type of Revision: Resubmission
Title: Mortgage Interest Statement
Description: Form 1098 is used by mortgagors who in a trade or business receive $600 or more of mortgage interest payments to report the amount of interest paid by an individual.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Burden: 5,295,045 hours

OMB Number: 1545-0984
Form Number: IRS Form 8586
Type of Review: Resubmission
Title: Low Income Housing Credit
Description: The Tax Reform Act of 1986 (Pub. L. 99-514) permits owners of residential rental projects providing low-income housing to claim a credit against income tax for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit and by IRS to verify that the correct credit has been claimed.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 26,123 hours

OMB Number: 1545-0992
Form Number: IRS Form 964-A
Type of Review: Resubmission
Title: Computation of Gain or Loss Recognized on Section 333 Liquidation
Description: Form 964-A is used by corporation who wish to liquidate under section 333. In order to qualify, the corporation must have an applicable value of $10,000,000 or less. If the corporation qualifies, Form 964-A is used to determine the amount of gain or loss the corporation must include as income on its final tax return. The IRS uses the information to determine if the corporation qualifies and if so the amount of income that must be included.
Respondents: Businesses
Estimated Burden: 5,737 hours
Clearance Officer: Garrick Shear, (202) 535-4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87-24999 Filed 10-28-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated. October 26, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0136
Form Number: None
Type of Review: Reinstatement
Title: Establishment of Manufacturing Warehouse
Description: The proprietor of a bonded manufacturing warehouse must furnish the district director of Customs a list of all articles intended to be manufactured therein. The list must contain the trade name and ingredients which entered into the manufacture of the articles showing quantity of ingredients or materials that may be dutiable or taxable.
Respondents: Businesses or other for-profit
Estimated Burder: 1 hour
Clearance Officer: B.J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Department Reports Management Officer.

[FR Doc. 87-25079 Filed 10-28-87; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Supplement to Department Circular; Public Debt Series No. 29–87]

Treasury Notes; Series AE–1989

October 22, 1987.

The Secretary announced on October 21, 1987, that the interest rate on the notes designated Series AE–1989, described in Department Circular—Public Debt Series—No. 29–87 dated October 15, 1987, will be 7⅞ percent. Interest on the notes will be payable at the rate of 7⅞ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87–24997 Filed 10–28–87; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 209
Thursday, October 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).

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO.: 87-24589.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 29, 1987, 10:00 a.m.

THE FOLLOWING ITEM WAS ADDED TO THE AGENDA:

Proposed Letters Regarding Title 26 Certifications to be Sent Prior to December 1987 to: (1) United States Treasury, (2) Candidates Whose Eligibility Has Been Established, (3) Candidates Upon Establishment of Eligibility.

* * * * *

DATE AND TIME: Tuesday, November 3, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

The open meeting of Thursday, November 5, 1987, has been cancelled.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-31255.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 87-25197 Filed 10-27-87; 8:45 am]
BILLING CODE 6715-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 9:00 a.m., Thursday, November 5, 1987.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Oral presentation to the Commission in the Rulemaking Proceedings on ophthalmology practices.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor; Office of Public Affiars: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,
Secretary.
[FR Doc. 87-25168 Filed 10-27-87; 1:58 pm]
BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Friday, November 6, 1987.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to be public.

MATTERS TO BE CONSIDERED: Portions Open to Public

(1) Oral Argument in Ticor Title Insurance Co., Docket No. 9190.

Portions Closed to the Public

(2) Executive Session to follow Oral Argument in Ticor Title Insurance Co., Docket No. 9190.

CONTRACT PERSON FOR MORE INFORMATION: Susan B. Tichnor; Office of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,
Secretary.
[FR Doc. 87-25169 Filed 10-27-87; 1:58 am]
BILLING CODE 6750-01-M

PAROLE COMMISSION

Record of Vote of Meeting Closure Pursuant to the Government in the Sunshine Act (Pub. L. 94-409) (5 U.S.C. Sec. 552b)

I, Benjamin F. Baer, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at Two o'clock p.m. on Monday, October 19, 1987 at the Commission's Northeast Regional Office, 2d and Chestnut Streets, Custom House, Philadelphia, Pennsylvania 19106. The meeting ended at or about 5:30 p.m. The purpose of the meeting was to decide approximately 13 appeals from National Commissioners' decisions pursuant to 28 CFR Sec. 2.27. Nine Commissioners were present, constituting a quorum, when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Benjamin F. Baer, Saundra Brown Armstrong, Cameron M. Batjer, Jasper Clay, Jr., Vincent J. Fechtel, Carol Pavilack Getty, Daniel R. Lopez, G. MacKenzie Rast, and Victor M.F. Reyes. The Commissions and a Parole Analyst attended.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Date: October 26, 1987.

Benjamin F. Baer,
Chairman, U.S. Parole Commission.
[FR Doc. 87-25195 Filed 10-27-87; 2:48 pm]
BILLING CODE 4410-01-M

Corrections

Federal Register
Vol. 52, No. 209
Thursday, October 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87M-0305]

IOLAB Corp.; Premarket Approval of LASAG Microruptor 2 and Topaz ND: YAG Ophthalmic Lasers for Iridotomy

Correction

In notice document 87-24070 beginning on page 38816 in the issue of Monday, October 19, 1987, make the following corrections:

1. On page 38816, in the third column, in the second complete paragraph, in the fifth line, "the" should read "that".

2. On the same page, in the third column, in the fourth complete paragraph, in the 22nd line, "substantive" should read "substantial".

3. On page 38817, in the first column, in the first complete paragraph, in the fourth line, "360e)(d)" should read "360e(d)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meetings

Correction

In notice document 87-24071 appearing on page 38817 in the issue of Monday, October 19, 1987, make the following correction:

On page 38817, in the second column, in the third line, "First Street" should read "280 First Street".

BILLING CODE 1505-01-D

federal register

Thursday
October 29, 1987

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 845 and 846

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program Inspection and Enforcement Procedures; Civil Penalties and Individual Civil Penalties; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 845 and 846

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program Inspection and Enforcement Procedures; Civil Penalties and Individual Civil Penalties

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is proposing to amend its regulations applicable to the assessment of civil penalties and individual civil penalties with respect to the lack of total highwall elimination. This action is being taken in response to a court-approved settlement agreement which addresses potential highwall policy. The proposed amendment would provide a method of calculating civil penalties for inactive sites when compliance with 30 CFR 816.102(a) cannot be accomplished using standard engineering practices or where compliance would result in significant harm to the environment and the operation does not qualify for an exception to total highwall elimination in accordance with 30 CFR 816.102(k).

DATES:

Written Comments

OSMRE will accept written comments on the proposed rule until 5:00 p.m., eastern time on January 5, 1988.

Public Hearings

Upon request, OMSRE will hold public hearings on the proposed rule in Washington, DC, Denver, Colorado, and Knoxville, Tennessee, at times and on dates to be announced prior to the hearings. Upon request, OSMRE also will hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings until 5:00 p.m., eastern time on December 10, 1987.

ADDRESSES:

Written Comments

Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street NW., Washington, DC, or mail to the Office of Surface Mining, Administrative Record, Room 5131L, 1951 Constitution Avenue NW., Washington, DC 20240.

Public Hearings

Department of the Interior Auditorium, 18th and C Streets NW., Washington, DC; Brooks Towers, 2nd Floor Conference Room, 1020 15th Street, Denver, Colorado; and the Hyatt House, 500 Hill Avenue, SE., Knoxville, Tennessee. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massschusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington will be announced prior to the hearings.

Requests for Public Hearings

Submit orally or in writing to the person and address specified under "**FOR FURTHER INFORMATION CONTACT**."

FOR FURTHER INFORMATION CONTACT: Raymond Aufmuth, Division of Technical Services, OSMRE, Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: (202) 343–5843.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit five copies of their comments (see "**ADDRESSES**"). Comments received after the close of the comment period (see "**DATES**") may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule only on request. The times, dates and addresses scheduled for the hearings will be announced in the **Federal Register** at least 7 days prior to any hearings which are held.

Any person interested in participating in a hearing at a particular location should inform Raymond Aufmuth (see "**FOR FURTHER INFORMATION CONTACT**") either orally or in writing of the desired hearing location by 5:00 p.m. eastern time on December 10, 1987. If no one has contacted Mr. Aufmuth to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see "**ADDRESSES**") an advance copy of their testimony.

II. Background

The Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) (SMCRA sets forth the general regulatory requirements governing surface coal mining operations and the surface impacts of underground coal mining. In 30 CFR Part 845, OSMRE has implemented and clarified the requirements of section 518 of SMCRA and set forth the basis and procedures for assessment of civil penalties with respect to cessation orders and notices of violation. In 30 CFR Part 846, OSMRE has identified the process that would govern the assessment of individual civil penalties against directors, officers, and agents of corporate permittees in accordance with section 518(f) of SMCRA.

Both OSMRE and environmental groups recognized the possible harmful environmental effects of redisturbing reclaimed areas of established vegetation and stable backfills, as well as the economic costs of rehandling established topsoil material and stable spoil materials and requiring regrading and revegetation of the entire site. In this context, it has been advocated that OSMRE develop and publish a policy which would be applicable to those surface coal mining sites which have been reclaimed without complete highwall elimination but where vegetation on the reclaimed areas has succeeded. This policy was to be in lieu of requiring redisturbance of the entire site to facilitate reclamation of the remaining highwall.

Such a policy statement was initially proposed as part of the proposed settlement of the St. Charles litigation proceedings, *St. Charles Mining Co. Inc.* v. *Office of Surface Mining Reclamation and Enforcement*, 94 IBLA 183 (Oct. 30, 1986). The proposed settlement was to provide a vehicle for this policy, acceptable to all parties concerned, and was to address highwall elimination as

required by the Act. However, no settlement was finalized in that case.

The settlement agreement in *Save Our Cumberland Mountains* v. *Hodel*, No. 81–2238 (D.D.C. June 7, 1985), (hereinafter, "SOCM agreement") includes a commitment by OSMRE to propose a regulation which would govern the reclamation of exposed highwalls on inactive mine sites pursuant to the general principles in Exhibit A attached to the agreement. Exhibit A provides background information on when OSMRE may encounter a situation where the suggested policy may be implemented and suggested language for developing a policy statement assessing a penalty.

OSMRE is proposing this amendment to its regulations at 30 CFR 845.15 and 846.12, to implement Exhibit A of the SOCM agreement. The final rule would also include amendments to 30 CFR Parts 723 and 724 which will parallel the provisions in Parts 845 and 846. Such language would implement the policy stated herein for initial program sites.

III. Discussion of Proposed Rules

Section 515(b)(3) of SMCRA requires all surface coal mining operations to backfill, compact and grade the mine site in order to restore the approximate original contour (AOC) of the land and to eliminate highwalls. This section provides that general performance standards shall require a surface coal mining operation at a minimum to:

> Compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act) * * *

Limited exceptions to this requirement are given in section 515(b)(3) and implementing regulations at 30 CFR 816.106/817.106 and 819.19.

Under this proposal, when OSMRE in performance of its oversight functions or in enforcing unabated cessation orders determines that an operator has left a highwall or has failed to return the land to AOC in violation of the Act, implementing Federal regulations or an approved State program, OSMRE would take appropriate enforcement action as discussed below. OSMRE may encounter this situation in two instances.

First, proposed 30 CFR 845.15(a)(2) provides that as part of its oversight review of State permitting, OSMRE may determine that a permit appears to improperly allow an operator to leave all or a portion of a highwall or fail to return the land to AOC. If this situation arises, OSMRE would notify the State and provide a 30 day period of time for the State to establish a schedule to require a permit revision for reclamation to AOC. If the State does not act within the 30 day time period to initiate proceedings to revise the permit, OSMRE would notify the State and take appropriate action.

Second, proposed 30 CFR 845.15(a)(3) provides that if OSMRE inspectors find that a highwall has been improperly left or that the AOC requirement has not been met, OSMRE would promptly issue a 10-day notice to the State (except where issuance of an imminent harm cessation order under 30 CFR 843.11(a) and SMCRA section 521(a)(2) is warranted). Pursuant to the provisions of section 521 of the Act, if the State does not take appropriate action within 10 days, the inspector would issue a Federal Notice of Violation (NOV) to the operator requiring the elimination of the highwall and return of the land to AOC.

Under other rules of 30 CFR 843.11(b), if the operator does not abate the NOV within the time given, the Federal inspector shall issue a cessation order.

Proposed 30 CFR 845.15(a)(4) specifies two circumstances which may not require total elimination of the highwall and return to AOC as a remedial measure for an inactive mine site: first, in the case where the highwall cannot be eliminated and the area returned to AOC using standard engineering practices; and second, where, given site specific conditions, return to AOC would cause imminent harm to the environment of a nature and duration that would result in irreparable damage.

Proposed 30 CFR 845.15(a)(5) provides that, where either of the above circumstances exist, the operator would be required to backfill the highwall to the extent technically practicable using all the spoil that is reasonably available and to take all other actions necessary to eliminate any adverse environmental, health, or safety consequences that relate to the existence of the highwall.

Proposed 30 CFR 845.15(a)(6) states that in all situations in which OSMRE would issue a NOV to the operator, but determines that the area cannot be returned to AOC or that highwalls cannot be eliminated using standard engineering practices or that it would cause significant harm to the environment of a nature and duration that would result in irreparable damage, a civil penalty would be imposed upon the operator. In assessing the penalty, OSMRE would ensure that the operator has gained no economic advantage as a result of failure to backfill the highwall and return the land to AOC. To achieve this objective, OSMRE would assess penalties in the following manner:

Proposed 30 CFR 845.15(a)(6)(i) provides that a penalty assessed for a notice of violation issued in accordance with 30 CFR 816.102(a) and this policy would be determined in accordance with 30 CFR 845.13 and 845.14. The penalty would then be assessed daily until the total penalty equals but in no case exceeds the approximate economic gain realized by the operator from failure to comply with 30 CFR 816.102(a), as calculated below.

New 30 CFR 845.15(a)(6)(ii) proposes that by using standard engineering practices, OSMRE would determine the total cubic yards of fill that would be required to return the site to AOC and/or completely eliminate the highwall as required by law. The total cubic yards of fill required will then be utilized to determine the costs the operator would have incurred if he had complied with the law. In making this determination, OSMRE would utilize the representative costs for backfilling and grading, topsoiling and revegetating the area, unless the operator can demonstrate in writing, and OSMRE finds, that his costs are lower. OSMRE would use the lower of (1) representative costs in the area, or (2) the operator's demonstrated costs per cubic yard or other relevant cost factor in determining the operator's approximate economic gain.

Proposed 30 CFR 845.15(a)(6)(ii)(C) states that OSMRE would calculate the operator's approximate economic gain by multiplying the cubic yards of fill necessary to return to AOC and/or eliminate the highwall by the cost per cubic yard of backfilling and grading plus the costs of topsoiling and revegetation.

In all situations in which OSMRE issues an NOV and assesses a penalty appropriate action would be taken to ensure that the operator does not receive a permanent program permit until such time as the operator's obligations under the NOV have been satisfied.

Section 518(f) of SMCRA addresses the assessment of individual civil penalties against officers, directors and agents of corporate permittees. Part 846 is the regulation counterpart to this provision of the Act. Part 846 was proposed at 51 FR 46838 (December 24, 1986), and is anticipated to be adopted prior to the adoption of this rule. Additional amendments to 30 CFR 846.12 are proposed in this rulemaking action to address the assessment of individual civil penalties concerning failure to return to AOC. The proposed language in this rulemaking addresses

willful and knowing actions which would result in a violation of the type described above.

In Federal program states the proposed amendment would be automatically incorporated by reference in Federal programs. OSMRE would follow the proposed policy in Federal program states (except that no notice to the State would be provided, since no State action would be required).

Part of the rulemaking process utilized by OSMRE consists of a Regulatory Outreach Program, one category of which is the "Draft Regulatory Language Review." In this phase, OSMRE sends draft language of proposed regulations through its outreach mailing list to obtain comments as early in the regulatory process as possible.

Comments received during this phase for this rulemaking activity have been reviewed but have not been incorporated into the proposed rule because the rule is being proposed in accordance with the suggested language of the SOCM agreement and some of the suggestions provided in outreach would represent significant changes from the language of the SOCM agreement.

However, OSMRE wishes to solicit comments on the specific suggestions resulting from the outreach program and wants to ensure that any such suggested changes are formally submitted as part of the rulemaking process and are incorporated in the administrative record for this rulemaking. Thus, the issues resulting from outreach suggestions upon which OSMRE solicits comments are: (1) The effect of the proposed policy on States' primacy in regulating coal mining activities; (2) the 30 day time limit placed on the States to establish a schedule to require permit amendment; (3) the relationship of the proposed rule to procedures for variances to the requirements of section 515(b)(3) of the Act to return mined lands to Approximate Original Contour (AOC) presently authorized in the Federal and State regulatory programs; (4) the appropriateness of using the term "standard engineering practices" as used in exhibit A of the agreement or the term "best technology currently available" as used in other Federal regulations; (5) the extent of damage from further redisturbance of revegetated and stabilized areas, and the environmental benefit of preventing such redisturbance; (6) the impact of the proposed level of paperwork on the State government; and (7) whether there is other "appropriate action" in addition to the States' requirement to establish a schedule for permit revisions, which should be accepted by OSMRE, and what that "appropriate action" would be.

IV. Procedural Matters

Federal Paperwork Reduction Act

There are no information collection requirements in this proposed rule which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291

The Department of the Interior (DOI) has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not a major rule and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule would not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an Environmental Assessment (EA) and has made a Finding of No Significant Impact (FONSI) in accordance with procedures of section 102(2) of the National Environmental Policy Act of 1969, (NEPA) 42 U.S.C. 4332(2)(c).

Author

The principal author of this rule is Raymond E. Aufmuth, Division of Technical Services, Branch of Research and Technical Standards, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240. (202) 343–5843.

List of Subjects

30 CFR Part 845

Administrative practice and procedure, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 846

Administrative practice procedures, Law enforcement, Penalties, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 845 and 846 are proposed to be amended as follows:

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

Date: August 28, 1987.

PART 845—CIVIL PENALTIES

1. The authority citation for Part 845 continues to read as follows:

Authority: Pub. L. 95–87, 91 STAT 445 (30 U.S.C. 1201 *et seq.*) unless otherwise noted.

2. Section 845.15 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding new paragraphs (a)(2), (a)(3), (a)(4), (a)(5) and (a)(6) as follows:

§ 845.15 Assessment of separate violations for each day.

* * * * *

(a) * * *

(2) As part of its oversight review of State permitting, the Office may determine that a permit for an inactive mine appears to improperly allow an operator to leave all or a portion of a highwall or fail to return the land to approximate original contour (AOC). If this situation arises, the Office will notify the State and provide a 30 day period of time for the State to establish a schedule to require the permit to be amended to require reclamation to AOC. If the State does not act within the 30 day time period to initiate proceedings to amend the permit, the Office will notify the State and take appropriate action.

(a)(3) If the Office inspectors find that a highwall has been improperly left or that the AOC requirement has not been met for an inactive mine site, the Office will promptly issue a 10-day notice to the State pursuant to the provisions of section 521 of SMCRA and 30 CFR 843.12 (except where issuance of an imminent harm cessation order under 30 CFR 843.11(a) and SMCRA section 521(a)(2) is warranted). If the State does not take appropriate action within 10 days, the inspector shall issue a Federal Notice of Violation (NOV) to the operator requiring the elimination of the highwall and return of the land to AOC.

(a)(4) The following two circumstances may not require total elimination of the highwall and return to AOC as a remedial measure for an inactive mine site: first, in the case where the highwall cannot be eliminated and the area returned to AOC using standard engineering practices; and second, where, given site specific conditions, return to AOC would cause imminent harm to the environment of a nature and duration that would result in irreparable damage.

(a)(5) Where either of the above circumstances exist, the operator shall be required to backfill the highwall to the extent technically practicable using all the spoil that is reasonably available, and to take all other actions necessary

to eliminate any adverse environmental or health or safety consequences that relate to the existence of the highwall.

(a)(6) Where compliance with 30 CFR 816.102(a) cannot be accomplished using standard engineering practices, or where such compliance would cause significant harm to the environment of a nature and duration that would result in irreparable damage, and the operation is an inactive mine site which does not qualify for a variance under 30 CFR 816.102(k), a notice of violation will be issued and a penalty will be assessed as follows:

(i) The penalty assessed for a notice of violation issued in accordance with 30 CFR 816.103(a) will be determined in accordance with 30 CFR 845.13 and 845.14. The penalty will then be assessed daily until the total penalty equals but does not exceed the approximate economic gain realized by the operator from failure to comply with 30 CFR 816.102(a), as calculated under paragraph (a)(6)(ii) of this section.

(ii) (A) Using standard engineering practices, the Office will determine the total cubic yards of fill that will be required to return the site to AOC and/or completely eliminate the highwall as required by the approved permit.

(B) The total cubic yards of fill required will then be utilized to determine the costs the operator would have incurred if he had complied with the law. In making this determination, the Office will utilize the representative costs for backfilling and grading, topsoiling and revegetating the area, unless the operator can demonstrate in writing, and the Office finds, that his costs are lower. The Office shall use the lower of (*1*) representative costs in the area, or (*2*) the operator's demonstrated costs per cubic yard or other relevant cost factor (e.g., ton, acre, etc.) in determining the operator's approximate economic gain.

(C) The Office shall calculate the operator's approximate economic gain by multiplying the cubic yards of fill necessary to return to AOC and/or eliminate the highwall (paragraph (a)(6)(ii)(A) of this section) by the cost per cubic yard of backfilling and grading plus the costs of topsoiling and revegetation (paragraph B).

* * * * *

PART 846—INDIVIDUAL CIVIL PENALTIES

Part 846 as proposed December 24, 1986, (51 FR 46838) is further amended as follows:

3. The authority citation for Part 846 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445; Pub. L. 100–34, 101 Stat. 300 (30 U.S.C. 1201 *et seq*).

4. Section 846.12 is amended by adding a new paragraph (c) as follows:

§ 846.12 When an individual civil penalty may be assessed.

* * * * *

(c) Notwithstanding the provisions of paragraph (b) of this section, if a corporate permittee has been assessed a civil penalty for failure to return an inactive mine site to AOC under 30 CFR 845.15, an individual civil penalty shall be assessed against any corporate director, officer or agent of the permittee who knowingly and willfully authorized, ordered, or carried out the violation.

[FR Doc. 87–24962 Filed 10–28–87; 8:45 am]
BILLING CODE 4310–05–M

federal register

Thursday
October 29, 1987

Part III

Department of Health and Human Services

Office of the Secretary

1988 Cost-of-Living Increase and Other Determinations; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

1988 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Secretary has determined—

(1) A 4.2 percent cost-of-living increase in benefits under title II (section 215(i)) of the Social Security Act (the Act);

(2) An increase in the Federal SSI (title XVI) benefit amounts for 1988 to $354 for an eligible individual, $532 for an eligible individual with an eligible spouse, and $177 for an essential person (section 1617 of the Act);

(3) The average of the total wages for 1986 to be $17,321.82;

(4) The Social Security contribution and benefit base to be $45,000 for remuneration paid in 1988 and self-employment income earned in taxable years beginning in 1988;

(5) The amount of earnings a person must have to be credited with a quarter of coverage in 1988 to be $470;

(6) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 1988 to be $700 for beneficiaries age 65 through 69 and $510 for beneficiaries under age 65;

(7) The "old-law" contribution and benefit base to be $33,600 for 1988.

We also describe the computation of benefits for a worker and the worker's family who first become eligible for benefits in 1988, and the computation of the OASDI fund ratio used to determine whether the automatic increase in benefits under title II of the Act is affected by the "stabilizer" provision.

Finally, we are publishing a table of OASDI "special minimum" benefit amounts. This table provides the range of primary insurance amounts and the corresponding maximum family benefits under the "special minimum" benefit provision, as revised to reflect the automatic benefit increase. These benefits are payable to certain individuals with long periods of relatively low earnings.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 965–3013.

SUPPLEMENTARY INFORMATION: The Secretary is required by the Act to publish within 45 days after the close of the third calendar quarter of 1987 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Secretary is required to publish before November 1 the average of the total wages for 1986 (section 215(i)(2)(C)(iii)) and the OASDI fund ratio for 1987 (section 215(i)(2)(C)(iii)). Finally, the Secretary is required to publish on or before November 1 the contribution and benefit base for 1988 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1988 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1988 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1988 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1988 (section 203(a)(2)(C)).

Cost-of-Living Increases

General. The cost-of-living increase is 4.2 percent for benefits under titles II and XVI of the Social Security Act.

Under title II, old-age, survivors, and disability insurance benefits will increase by 4.2 percent beginning with the December 1987 benefits, which are payable on December 31, 1987. The kinds of benefits payable to individuals entitled under this program are old-age, disability, wife's, husband's, child's, widow's, widower's, mother's, father's, and parent's insurance benefits. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 4.2 percent effective for payments made for the month of January 1988 but paid on December 31, 1987. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1988 is the same as the title II benefit increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12.

Automatic Benefit Increase Computation. Under section 215(i) of the Act, the third calendar quarter of 1987 is a cost-of-living computation quarter for all the purposes of the Act. The Secretary is therefore required to increase benefits, effective with December 1987, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1987, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1986 through the third quarter of 1987. Automatic benefit increases may be modified by a "stabilizer" provision under certain adverse financial conditions that are described in the section on the OASDI fund ratio. The December 1987 benefit increase is not affected by this provision.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetical mean of this index for the 3 months in that quarter. The Department of Labor's revised Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1986, was: for July 1986, 322.9; for August 1986, 323.4; and for September 1986, 324.9. The arithmetical mean for this calendar quarter is 323.7 (after rounding to the nearest 0.1). The corresponding Consumer Price Index for each month in the quarter ending September 30, 1987 was: For July 1987, 335.6; for August 1987, 337.4; and for September 1987, 339.1. The arithmetical mean for this calendar quarter is 337.4. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1987 exceeds that for the calendar quarter ending September 30, 1986 by 4.2 percent, a cost-of-living benefit increase of 4.2 percent is effective for benefits under title II of the Act beginning December 1987.

Title II Benefit Amounts. In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1988, benefits will increase by 4.2 percent beginning with benefits for December 1987 which will be received December 31, 1987. In the case of first eligibility after 1987, the 4.2 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. In accordance with section 215(i)(4) of the Act, the primary insurance amounts and the maximum family benefits shown in this table are revised by (1) increasing by 4.2 percent the corresponding amounts established by the last cost-of-living increase and the last extension of the benefit table made under section 215(i)(4) (to reflect the increase in the contribution and benefit base for 1987);

and (2) by extending the table to reflect the higher monthly wage and related benefit amounts now possible under the increased contribution and benefit base for 1988, as described later in this notice. A copy of this table may be obtained by writing to: Social Security Administration, Office of Governmental Affairs, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act also requires that, when the Secretary determines an automatic increase in Social Security benefits, the Secretary shall publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. In accordance with section 215(a)(1)(C)(i), the attached table shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 4.2 percent benefit increase.

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surviving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $140.30 for an individual under sections 227 and 228 of the Act is increased by 4.2 percent to obtain the new amount of $146.10. The present monthly benefit amount of $70.30 for a spouse under section 227 is increased by 4.2 percent to $73.20.

Title XVI Benefit Amounts. In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 4.2 percent effective January 1988. Therefore, the yearly Federal SSI benefit amount of $4,080 for an eligible individual, $6,120 for an eligible individual with an eligible spouse and $2,040 for an essential person, which became effective January 1987, are increased, effective with January 1988, to $4,248, $6,384, and $2,124 respectively after rounding. The monthly payment amount is determined by dividing the yearly amount by 12, and subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

Average of the Total Wages for 1986

The determination of the average wage figure for 1986 is based on the 1985 average wage figure of $16,822.51 announced in the **Federal Register** on November 5, 1986 (51 FR 40256), along with the percentage increase in average wages from 1985 to 1986 measured by annual wage data tabulated by the Social Security Administration (SSA). The average amounts of wages calculated directly from this data were $15,900.51 and $16,372.45 for 1985 and 1986, respectively. To determine an average wage figure for 1986 at a level that is consistent with the series of average wages for 1951 to 1977 (published December 29, 1978, at 43 FR 61016), we multiplied the 1985 average wage figure of $16,822.51 by the percentage increase in average wages from 1985 to 1986 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent): Average wage for 1986 = $16,822.51 × $16,372.45 ÷ $15,900.51 = $17,321.82. Therefore, the average wage for 1986 is determined to be $17,321.82.

Contribution and Benefit Base

General. The contribution and benefit base is $45,000 for remuneration paid in 1988 and self-employment income earned in taxable years beginning in 1988.

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which Social Security taxes are paid.

(2) It is the maximum annual amount used in determining a person's Social Security benefits.

Computation. Section 230(c) of the Act provides a table with the contribution and benefit base for each year 1978, 1979, 1980, and 1981. For years after 1981, section 230(b) of the Act contains a formula for determining the contribution and benefit base. Under the prescribed formula, the contribution and benefit base for 1988 shall be equal to the 1987 base of $43,800 multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year 1986 to (2) the average amount of those wages for the calendar year 1985. Section 230(b) further provides that if the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages. The average wage for calendar year 1985 was previously determined to be $16,822.51. The average wage for calendar year 1986 has been determined to be $17,321.82 as stated herein.

Amount. The ratio of the average wage for 1986, $17,321.82, compared to that for 1985, $16,822.51, is 1.029681. Multiplying the 1987 contribution and benefit base of $43,800 by the ratio 1.029681 produces the amount $45,100.03 which must then be rounded to $45,000. Accordingly, the contribution and benefit base is determined to be $45,000 for 1988.

Quarter of Coverage Amount

General. The 1988 amount of earnings required for a quarter of coverage is $470. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95-216) amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year). Individuals generally must have self-employment income of at least $400 in a taxable year in order to be credited with any quarters of coverage.

Computation. Under the prescribed formula, the quarter of coverage amount for 1988 shall be equal to the 1978 amount of $250 multiplied by the ratio of: (1) The average amount, per employee, of total wages for calendar year 1986 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for calendar year 1976 was previously determined to be $9,226.48. This was published in the **Federal Register** on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1986 has been determined to be $17,321.82 as stated herein.

Quarter of Coverage Amount. The ratio of the average wage for 1986, $17,321.82, compared to that for 1976, $9,226.48, is 1.8774. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 1.8774 produces the amount

of $469.35 which must then be rounded to $470. Accordingly, the quarter of coverage amount is determined to be $470 for 1988.

Retirement Earnings Test Exempt Amounts

(a) *Beneficiaries Aged 70 or Over.* Beginning with months after December 1982, there is no limit on the amount an individual aged 70 or over may earn and still receive Social Security benefits.

(b) *Beneficiaries Aged 65 through 69.* The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is stated in the Act at section 203(f)(8)(D) for years 1978 through 1982. A formula is provided in section 203(f)(8)(B) for computing the exempt amount applicable for years after 1982. The monthly exempt amount for 1987 was determined by this formula to be $680. Under the formula, the exempt amount for 1988 shall be the 1987 exempt amount multiplied by the ratio of: (1) The average amount, per employee, of the total wages for calendar year 1986 to (2) the average amount of those wages for calendar year 1985. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1986, $17,321.82, compared to that for 1985, $16,822.51, is 1.029681.

Exempt Amount for Beneficiaries Aged 65 through 69. Multiplying the 1987 retirement earnings test monthly exempt amount of $680 by the ratio of 1.029681 produces the amount of $700.18. This must then be rounded to $700. The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $700 for 1988. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $8,400.

(c) *Beneficiaries Under Age 65.* Section 203 of the Act provides that beneficiaries under age 65 have a lower retirement earnings test monthly exempt amount than those beneficiaries aged 65 through 69. The exempt amount for beneficiaries under age 65 is determined by a formula provided in section 203(f)(8)(B) of the Act. Under the formula, the monthly exempt amount for beneficiaries under age 65 is $500 for 1987. The formula provides that the exempt amount for 1988 shall be the 1987 exempt amount for beneficiaries under age 65 multiplied by the ratio of: (1) The average amount, per employee, of the total wages for calendar year 1986 to (2) the average amount of those wages for calendar year 1985. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1986, $17,321.82, compared to that of 1985, $16,822.51, is 1.029681.

Exempt Amount for Beneficiaries Under Age 65. Multiplying the 1987 retirement earnings test monthly exempt amount of $500 by the ratio 1.029681 produces the amount of $514.84. This must then be rounded to $510. The retirement earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $510 for 1988. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $6,120.

Computing Benefits After 1978

The Social Security Amendments of 1977 changed the formula for determining an individual's primary insurance amount after 1978. This basic new formula is based on "wage indexing" and was fully explained with interim regulations and final regulations published in the **Federal Register** on December 29, 1978 (43 FR 60877) and July 15, 1982 (47 FR 30731) respectively. It generally applies when a worker after 1978 attains age 62, becomes disabled, or dies before age 62. This formula uses the worker's earnings after they have been adjusted, or "indexed," in proportion to the increase in average wages of all workers. Using this method, we determine the worker's "average indexed monthly earnings." We then compute the primary insurance amount, using the worker's average indexed monthly earnings. The computation formula is adjusted automatically each year to reflect changes in general wage levels.

Average Indexed Monthly Earnings. To assure that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime, we adjust or "index" the worker's past earnings to take into account the change in general wage levels that has occurred during the worker's years of employment. These adjusted earnings are then used to compute the worker's primary insurance amount.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled, or dying before attaining age 62, in 1988, we divide the average of the total wages for 1986, $17,321.82, by the average of the total wages for each year prior to 1986 in which the worker had earnings. We then multiply the actual wages and self-employment income as defined in section 211(b) of the Act credited for each year by the corresponding ratio to obtain the worker's adjusted earnings for each year. After determining the number of years we must use to compute the primary insurance amount, we pick those years with highest indexed earnings, total those indexed earnings and divide by the total number of months in those years. This figure is rounded down to the next lower dollar amount, and becomes the average indexed monthly earnings figure to be used in computing the worker's primary insurance amount for 1988.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The amounts for 1988 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1986, $17,321.82, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1988, the ratio is 1.7712487. Multiplying the 1979 amounts of $180 and $1,085 by 1.7712487 produces the amounts of $318.82 and $1,921.80. These must then be rounded to $319 and $1,922. Accordingly, the portions of the average indexed monthly earnings to be used in 1988 are determined to be the first $319, the amount between $319 and $1,922, and the amount over $1,922.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1988, or who die in 1988 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $319 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $319 and through $1,922, plus

(c) 15 percent of the average indexed monthly earnings over $1,922.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

The 1977 Amendments continued the long established policy of limiting the total monthly benefits which a worker's

family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. The new formula was explained in a Final Rule published in the **Federal Register** on May 8, 1981, at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The amounts for 1988 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1986, $17,321.82, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1988, the ratio is 1.7712487. Multiplying the amounts of $230, $332, and $433 by 1.7712487 produces the amounts of $407.39, $588.05, and $766.95. These amounts are then rounded to $407, $588, and $767. Accordingly, the portions of the primary insurance amounts to be used in 1988 are determined to be the first $407, the amount between $407 and $588, the amount between $588 and $767, and the amount over $767.

Consequently, for the family of a worker who becomes age 62 or dies in 1988, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $407 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $407 through $588, plus

(c) 134 percent of the worker's primary insurance amount over $588 through $767, plus

(d) 175 percent of the worker's primary insurance amount over $767.

This amount is then rounded to the next lower multiple of 10 cents if it is not already a multiple of 10 cents. This formula and the adjustments we have described are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

"Old-Law" Contribution and Benefit Base

General. The 1988 "old-law" contribution and benefit base is $33,600. This is the base that would have been effective under the Social Security Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Social Security Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(1) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(2) The Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act), and

(3) Social Security to determine a "year of coverage" in computing the "special minimum" benefit and in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Social Security Act.

Computation. The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments. Under the formula, the "old-law" contribution and benefit base shall be the "old-law" 1987 base multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year of 1986 to (2) the average amount of those wages for the calendar year of 1985. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages. The average wage for calendar year 1985 was previously determined to be $16,822.51. The average wage for calendar year 1986 has been determined to be $17,321.82, as stated herein.

Amount. The ratio of the average wage for 1986, $17,321.82, compared to that for 1985, $16,822.51, is 1.029681. Multiplying the 1987 "old-law" contribution and benefit base amount of $32,700 by the ratio of 1.029681 produces the amount of $33,670.57 which must then be rounded to $33,600. Accordingly, the "old-law" contribution and benefit base is determined to be $33,600 for 1988.

OASDI Fund Ratio

General. Section 215(i) of the Act was amended by section 112 of Pub. L. 98–21, the Social Security Amendments of 1983, to include a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified level, the automatic benefit increase is equal to the lesser of: (1) The increase in average wages or (2) the increase in prices. The threshold level specified for the OASDI fund ratio is 15.0 percent for benefit increases for December of 1984 through December 1988, and 20.0 percent thereafter. The amendments also provide for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation. Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1987 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1987, including advance tax transfers for January 1987, to (2) the estimated expenditures of the OASI and DI Trust Funds during 1987, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio. The combined assets of the OASI and DI Trust Funds at the beginning of 1987 (including advance tax transfers for January 1987) equaled $65,227 million, and the expenditures are estimated to be $209,580 million. Thus, the OASDI fund ratio for 1987 is 31.1 percent, which exceeds the applicable threshold of 15.0 percent. As a result, the "stabilizer" provision does not affect the benefit increase for December 1987.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802–13.805, and 13.807 Social Security Programs.)

Dated: October 19, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Special minimum primary insurance amount payable for Dec. 1986	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for Dec. 1987	Special minimum maximum family benefit payable for Dec. 1987
$19.40	11	$20.20	$30.40
38.50	12	40.10	60.40
57.90	13	60.30	90.70
77.10	14	80.30	120.70
96.40	15	100.40	150.70
115.80	16	120.60	181.20

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS—Continued

Special minimum primary insurance amount payable for Dec. 1986	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for Dec. 1987	Special minimum maximum family benefit payable for Dec. 1987
135.10	17	140.70	211.20
154.40	18	160.80	241.40
173.70	19	180.90	271.50
192.80	20	200.80	301.50
212.30	21	221.20	331.90
231.50	22	241.20	362.00
251.00	23	261.50	392.50
270.20	24	281.50	422.50
289.40	25	301.50	452.40
308.90	26	321.80	483.00

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS—Continued

Special minimum primary insurance amount payable for Dec. 1986	Number of years required at minimum earnings level	Special minimum primary insurance amount payable for Dec. 1987	Special minimum maximum family benefit payable for Dec. 1987
328.20	27	341.90	513.10
347.40	28	361.90	543.00
366.60	29	381.90	573.30
385.80	30	402.00	603.30

[FR Doc. 87-25007 Filed 10-28-87; 8:45 am]

BILLING CODE 4190-11-M

Federal Register

Thursday
October 29, 1987

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Vouchers; Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-87-1745; FR-2420]

Section 8 Housing Vouchers

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

ACTION: Notice of funding availability.

SUMMARY: This Notice announces the availability of fiscal year 1988 funding authority provided in the Continuing Resolution for HUD's Housing Voucher Program authorized by section 8(o) of the United States Housing Act of 1937, subject to the program requirements set out in Part III of the Notice of Funding Availability published on February 19, 1987, at 52 FR 5250.

EFFECTIVE DATE: October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Housing Voucher Division, Room 6122, Department of Housing and Urban Deveopment, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6477. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: The Housing Voucher Program is authorized under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1347f(o)), which was added by section 207 of the Housing and Urban-Rural Recovery Act of 1983. The Department has implemented the Housing Voucher Program, which the authorizing legislation characterizes as a demonstration program, by publishing Notices of Funding Availability (NOFAs). (See the **Federal Register** issues of July 12, 1984, 49 FR 28458; February 28, 1985, 50 FR 8196; March 31, 1986, 51 FR 10932; December 30, 1986, 51 FR 47064; and February 19, 1987, 52 FR 5250.)

In the February 19, 1987, NOFA (February 1987 NOFA), the Department indicated that it was developing regulations for the Housing Voucher Program and that it would publish a proposed rule seeking public comment on the Housing Voucher Program. The proposed rule was published on August 14, 1987, at 52 FR 30388. The Department has received 269 public comments, and is currently developing the final rule. Pending completion of the Housing Voucher Program final rule, the Department intends to continue the policies in effect in fiscal year 1987.

The Continuing Resolution, Pub. L. 100-120, approved September 30, 1987, authorizes the Department to continue funding in fiscal year 1988 at the same rate as in fiscal year 1987, until November 10, 1987. The Continuing Resolution was enacted with the expectation that its terms would be succeeded by the respective appropriation laws (including the Department of Housing and Urban Development and Independent Agencies Appropriations Act for fiscal year 1988) or by another continuing resolution.

This notice of funding availability announces the availability of the contract and budget authority for housing vouchers appropriated by the Continuing Resolution. The funding shall be used for the purposes provided in, and under the requirements of, the February 1987 NOFA (Section II.*A.* and Part III, respectively). This NOFA does not implement any of the policies described in Section II.*B.* 2., Anticipated Changes in the Housing Voucher Program, of the February 1987 NOFA. Action on those proposed changes, including modifications set out in the proposed rule, will be dealt with in the Housing Voucher Program final rule.

1. *Headquarters Reserve.* The Secretary is retaining a number of housing vouchers in a Headquarters reserve, and, subject to the availability of sufficient contract and budget authority, these housing vouchers will be used for emergencies and for the specific uses detailed in section II.*A.*1. of the February 1987 NOFA. The Department will use housing vouchers under the "opt-out" set-aside described in section II.*A.* 1.(d) for the purposes described in that section, as well as mortgage prepayments.

2. *Housing Vouchers Distributed by Formula Allocation.* The Department will allocate a portion of the fiscal year 1988 housing voucher funding authority made available under the Continuing Resolution to its Regional Offices, using an allocation procedure patterned on the procedures in 24 CFR Part 791.

3. *Program Requirements.* As previously noted, the Housing Voucher Program requirements contained in Part III of the February 19, 1987 NOFA apply to the Housing Voucher Program, including contract and budget authority made available in fiscal year 1988 under this NOFA. References to fiscal year 1987 in the February NOFA should be read to mean fiscal year 1988 for purposes of this NOFA.

In determining how many housing vouchers or certificates a PHA may target to families on waiting lists who agree to move initially into a rental rehabilitation project (see sections III. *H.* (b)(4)(iii) and III. *I.* (f)(2)(iii) of the February 1987 NOFA), a PHA must deduct the number of housing vouchers allocated to it in connection with rental rehabilitation in *both* fiscal year 1987 and fiscal year 1988 from the total number of housing vouchers and certificates allocated to it in connection with rental rehabilitation.

For housing voucher authority made available under this NOFA, the deadline under section III. *D.*(b) of the February 1987 NOFA for State rental rehabilitation grantees to transfer housing voucher authority to specific local PHAs is September 30, 1989.

Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary since the Certificate Program and the Housing Voucher Program are part of the Section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520. Currently approved requirements have been assigned the following OMB Control Numbers: 2502-0123; 2502-0154; 2502-0161; 2502-0185; 2502-0348; 2502-0350; 2502-0362; 2577-0067; and 2577-0083.

Authority: Section 8(o) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)); section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 22, 1987

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-25042 Filed 10-28-87; 8:45 am]

BILLING CODE 4210-27-M

federal register

Thursday
October 29, 1987

Part V

Veterans Administration

Cost-of-Living Adjustments and Headstone or Marker Allowance Rate; Notice

VETERANS ADMINISTRATION

Cost-of-Living Adjustments and Headstone or Marker Allowance Rate

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: As required by law the Veterans Administration (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit rates and income limitations. These COLAs affect the pension and parents' dependency and indemnity compensation (DIC) programs. These adjustments are based on the rise in the Consumer Price Index (CPI) during the one year period ending September 30, 1987. The VA is also giving notice of the maximum amount of reimbursement that may be paid for headstones or markers purchased in lieu of Government-furnished headstones or markers in fiscal year 1988 which began on October 1, 1987.

DATE: These COLAs are effective December 1, 1987. The headstone or marker allowance rate is effective October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits, (202) 233–3005.

SUPPLEMENTARY INFORMATION: Under the provisions of 38 U.S.C. 3112 and section 306 of Pub. L. 95–588 the VA is required to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates and income limitations are also required to be published in the **Federal Register.**

The Social Security Administration has announced that there will be a 4.2 percent cost-of-living increase in social security benefits effective December 1, 1987. Therefore, applying the same percentage, the following increased rates and income limitations for the VA's pension and parents' DIC programs will be effective December 1, 1987.

Improved Pension

Table 1

Maximum Annual Rates

(1) *Veterans permanently and totally disabled (38 U.S.C. 521).*

Veteran with no dependents, $6,214.

Veteran with one dependent, $8,140.

For each additional dependent, $1,055.

(2) *Veterans in need of aid and attendance (38 U.S.C. 521).*

Veteran with no dependent, $9,940.

Veteran with one dependent, $11,866.

For each additional dependent, $1,055.

(3) *Veterans who are housebound (38 U.S.C. 521).*

Veteran with no dependents, $7,595.

Veteran with one dependent, $9,521.

For each additional dependent, $1,055.

(4) *Two veterans married to one another; combined rates (38 U.S.C. 521).*

Neither veteran in need of aid and attendance or housebound, $8,140.

Either veteran in need of aid and attendance, $11,866.

Both veterans in need of aid and attendance, $15,590.

Either veteran housebound, $9,521.

Both veterans housebound; $10,903.

One veteran housebound and one veteran in need of aid and attendance, $13,246

For each dependent child, $1,055.

(5) *Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 541).*

Surviving spouse alone, $4,164.

Surviving spouse and one child in his or her custody, $5,455.

For each additional child in his or her custody, $1,055.

(6) *Surviving spouses in need of aid and attendance (38 U.S.C. 541).*

Surviving spouse alone, $6,661.

Surviving spouse with one child in his or her custody, $7,949.

For each additional child in his or her custody, $1,055.

(7) *Surviving spouse who are housebound (38 U.S.C. 541).*

Surviving spouse alone, $5,091.

Surviving spouse and one child in his or her custody, $6,379.

For each additional child in his or her custody $1,055.

(8) Surviving child alone (38 U.S.C. 542), $1,055.

Reduction for income. The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 521, 541, and 542).

Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or world War I veteran under this table shall be increased by $1,404. (38 U.S.C. 521(g)).

Parents' DIC

DIC (dependency and indemnity compensation) shall be paid monthly to parents of a deceased veteran in the following amounts. (38 U.S.C. 415).

Table 2

[*One parent.* If there is only one parent the monthly rate of DIC paid to such parent shall be $291 reduced on the basis of the parent's annual income according to the following formula]

For each $1 of annual income		
The $291 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.08	$800	$7,068

Note.—No DIC is payable under this table if annual income exceeds $7,068.

One parent who has remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under table 2 or under table 4, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

Two parents not living together. The rates in table 3 apply to: (1) Two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The montly rate of DIC paid to each such parent shall be $208 reduced on the basis of each parent's annual income, according to the following formula:

Table 3

For each $1 of annual income		
The $208 monthly rate shall be reduced by	Which is more than	But not more than
$0.00	0	$800
.05	$800	$900
.06	$900	$1,000
.07	$1,000	$1,200
.08	$1,200	$7,068

Note.—No DIC is payable under this table if annual income exceeds $7,068.

Two parents living together or remarried parents living with spouses. The rates in table 4 apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $196 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse

or spouses, as computed under the following formula:

Table 4

For each $1 of annual income		
The $196 monthly rate shall be reduced by	Which is more than	But not more than
0.00	0	$1,000
.03	$1,000	$1,600
.04	$1,600	$2,100
.05	$2,100	$2,600
.06	$2,600	$3,100
.07	$3,100	$3,500
.08	$3,500	$9,504

Note.—No DIC is payable under this table if combined annual income exceeds $9,504.

The rates in this table are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in table 2 for one parent.

Aid and attendance. The monthly rate of DIC payable to a parent under tables 2 through 4 shall be increased by $154 if such parent is: (1) A patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate. The monthly rate of DIC payable to any parent under tables 2 through 4 shall not be less than $5.

Section 306 Pension Income Limitations

Table 5

(1) Veteran or surviving spouse with no dependents, $7,068 (Pub. L. 95–588, section 306(a)).

(2) Veteran with no dependents in need of aid and attendance, $7,568 (38 U.S.C. 521(d) as in effect on December 31, 1978).

(3) Veteran or surviving spouse with one or more dependents, $9,504 (Pub. L. 95–588, section 306(a)).

(4) Veteran with one or more dependents in need of aid and attendance, $10,004 (38 U.S.C. 521(d) as in effect on December 31, 1978).

(5) Child (no entitled veteran or surviving spouse), $5,776 (Pub. L. 95–588, section 306(a)).

(6) Spouse income exclusion (38 CFR 3.262), $2,252 (Pub. L. 95–588, section 306(a)(2)(B)).

Old-Law Pension Income Limitations

Table 6

(1) Veteran or surviving spouse without dependents or an entitled child, $6,187 (Pub. L. 95–588, section 306(b)).

(2) Veteran or surviving spouse with one or more dependents, $8,922 (Pub. L. 95–588, section 306(b)).

Headstone or Marker Allowance

Under 38 U.S.C. 906(d) the VA may provide reimbursement for the cost of non-Government headstones or markers at a rate equal to the actual cost or the average actual cost of Government-furnished headstones or markers during the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased, whichever is less.

The average actual cost of Government-furnished headstones and markers during any fiscal year is determined by dividing the sum of the VA's costs during that fiscal year for procurement, transportation, Monument Service and miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by the VA during that fiscal year and rounding to the nearest whole dollar amount.

The average actual cost of Government-furnished headstones or markers for fiscal year 1987 under the above computation method was $76. Therefore, effective October 1, 1987, the maximum rate of reimbursement for non-Government headstones or markers purchased during fiscal year 1988 is $76.

Dated: October 27, 1987.

Thomas K. Turnage,

Administrator.

[FR Doc. 87–25157 Filed 10–28–87; 8:45 am]

BILLING CODE 8320–01–M

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Federal Register

Vol. 52, No. 209

Thursday, October 29, 1987

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H.R. 1567/Pub. L. 100-139

Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987. (Oct. 26, 1987; 101 Stat. 822; 8 pages) Price: $1.00