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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 609]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 609 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 335,000 cartons during the period April 17 through April 23, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 609 (§ 910.909) is effective for the period April 17 through April 23, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, 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.

This regulation is issued under Marketing Order No. 910, as amended [7 CFR Part 910] regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on April 12, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a unanimous vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market for lemons is steady.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.909 is added to read as follows:

[This section will not appear in the Code of Federal Regulations.]

§ 910.909 Lemon Regulation 609.

The quantity of lemons grown in California and Arizona which may be handled during the period April 17, 1988, through April 23, 1988, is established at 335,000 cartons.

Dated: April 13, 1988.

Robert C. Keeney,

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

[FR Doc. 88–8403 Filed 4–14–88; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R–0632]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is delegating to the Staff Director of the Division of Banking Supervision and Regulation its authority under 17 CFR 403.5(g) to extend the 30-day period for buy-ins of securities that were not received.

EFFECTIVE DATE: April 11, 1988.

FOR FURTHER INFORMATION CONTACT: Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation (202–452–2782); Joseph R. Alexander, Senior Attorney, Legal Division (202–452–2489); Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Under the authority of the Government Securities Act of 1986, the Treasury Department has issued rules (Chapter IV

of 17 CFR) concerning, among other things, the duties of government securities brokers and dealers to protect investor securities and funds. Section 403.5(c)(1) of these rules requires a financial institution that is a government securities broker or dealer to determine on each business day the quantity and issue of government securities held for the account of its customers that are required to be, but are not, in the financial institution's control. If any of these securities are shown as "failed to receive" for more than 30 days, the financial institution must take prompt steps to obtain possession or control of these securities, steps that normally involve "buying in" the necessary securities; i.e., the institution must purchase securities of the same issue and maturity to cover its obligation to its customer.

In issuing its final rules, the Treasury Department noted that many of the commenters pointed out the frequent difficulties of buying in certain kinds of securities, particularly mortgage-backed securities and certain Treasury issues. Treasury thus exempted mortgage-backed securities from the buy-in requirement and made provision for financial institution broker-dealers to request extensions of the 30-day period for other securities. Section 403.5(g) of the Treasury regulations provides that a financial institution's appropriate regulatory agency may extend the 30-day buy-in period for one or more limited periods commensurate with the circumstances, provided the agency is satisfied that the applicant is acting in good faith and that exceptional circumstances warrant such action. The agency must keep records of each extension granted, together with the agency's justification for granting the extension, for at least three years.

The Board is the appropriate regulatory agency for state-chartered banks that are members of the Federal Reserve System, foreign banks, state branches and state agencies of foreign banks, and commercial lending companies that are owned or controlled by foreign banks. The Board has decided, under the authority of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), to delegate its authority to extend the 30-day buy-in period for fails to receive to the Staff Director of the Division of Banking Supervision and Regulation.

The Board finds that this amendment relates only to rules of agency organization, procedure, or practice, and thus the usual publication of a proposal for comment is not required by 5 U.S.C. 553(b)(A).

List of Subjects in 12 CFR Part 265

Banks, Banking, Federal Reserve System.

For the reasons set out in the preamble, Title 12, Part 265, of the Code of Federal Regulations is amended as set forth below.

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for Part 265 continues to read as follows:

Authority: 12 U.S.C. 248(k).

2. A new paragraph (c)(36) is added to § 265.2 to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(c) * * *

(36) Under § 403.5(g) of the Treasury Department regulations (17 CFR 403.5(g)) implementing the Government Securities Act of 1986 (Pub. L. 99-571), to approve the application of a state member bank, a state branch or agency of a foreign bank, a foreign bank, or a commercial lending company owned or controlled by a foreign bank to extend for one or more limited periods commensurate with the circumstances the 30-day time period for obtaining possession or control of securities specified in 17 CFR 403.5(c)(1)(iii), provided the Staff Director is satisfied that the applicant is acting in good faith and that exceptional circumstances warrant such action.

By order of the Board of Governors of the Federal Reserve System, April 11, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-8250 Filed 4-14-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 308

[Docket No. 71030-7232]

Adjustment Grants—Revolving Loan Funds

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends EDA's rule on adjustment grants to provide that revolving loan fund (RLF) grants are held in trust by the grantee as trustee for the benefit of borrowers and potential borrowers.

DATES: Effective date: April 15, 1988.

Comments by: June 14, 1988.

ADDRESS: Send comments to James F. Marten, Deputy Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7001, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: James F. Marten, Deputy Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7001, Washington, DC 20230, (202) 377-5441.

SUPPLEMENTARY INFORMATION: EDA is amending 13 CFR 308.5(c)(2) by adding a statement that RLF grants are held in trust by the grantee as trustee for the benefit of borrowers and potential borrowers. This statement is necessary to clarify the legal rights and obligations of parties involved in RLF projects so that when a grantee can no longer perform its duties under the grant, a substitute grantee could serve as trustee. If not, then the trust assets would be returned to the U.S. Treasury.

Under Executive Order 12291 the Department must judge whether a regulation is "major" within the meaning of Section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, unemployment, investments, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has to be or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

Accordingly, the Department's General Counsel has determined and so certified to the Office of Management

and Budget, that dispensing with notice and opportunity for comment is consistent with the Administrative Procedure Act (APA) and all other relevant laws.

However, because the Department is interested in receiving comments from those who will benefit from the amendment, this rule is being issued as interim final. Public comments on the interim rule are invited and should be sent to the address listed in the "ADDRESS" section above.

Comments received by June 14, 1988 will be considered in promulgating a final rule.

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

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96–511).

List of Subjects in 13 CFR Part 308

Business and industry; Community development; Community facilities; Grant programs-business; Grant programs-community development; Indians; Manpower training programs; Mortgages; Relocation assistance; Rent subsidies; Reporting and recordkeeping requirements; Research; Technical assistance; Unemployment compensation.

PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS.

1. The authority citation for Part 308 is revised to read as follows:

Authority: Sec. 701, Pub. L. 89–136; 79 Stat. 570 (42 U.S.C. 3211); Sec. 1–105, Department of Commerce Organization Order 10–4, as amended (40 FR 5670, as amended).

2. Section 308.5 is amended by revising paragraph (c)(2) to read as follows:

§ 308.5 Use of adjustment grants.

* * * * *

(c) * * *

(2) Adjustment grants may be redistributed in the form of loans, loan guarantees, payments to reduce interest on guaranteed loans, or other appropriate assistance to public and private entities. Revolving loan fund grants are held in trust by the grantee as trustee for the benefit of borrowers and potential borrowers.

Date: April 11, 1988.

Orson G. Swindle, III,

Assistant Secretary for Economic Development.

[FR Doc. 88–8340 Filed 4–14–88; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–ANE–45; Amendment 39–5880]

Airworthiness Directives; GROB Models G103 TWIN II and G103A TWIN II ACRO Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain GROB Models G103 TWIN II and G103A TWIN II ACRO gliders by individual priority letter. The AD requires visual inspection of the rudder lever, P/N 103B–4430, for damage within 5 hours time in service after receipt of the AD, on GROB Models G103 TWIN II and G103A TWIN II ACRO gliders; and replacement prior to further flight if damaged, and if not damaged, no later than March 15, 1988. The AD is needed to prevent failure of the rudder lever which could result in the loss of rudder control and possible loss of the glider.

DATES: Effective—April 15, 1988 as to all persons except those persons to whom it was made immediately effective by priority letter AD 87–25–10, issued December 11, 1987, which contained this amendment.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by reference—Approved by the Director of the Federal Register as of April 15, 1988.

ADDRESSES: The applicable technical information referenced in this amendment may be obtained from GROB Systems, Inc., Aircraft Division, I–75 and Airport Drive, Bluffton, Ohio 45817. A copy of each Service Bulletin is contained in Rules Docket No. 87–ANE–45, Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Munroe Dearing, Brussels Aircraft Certification Office, AEU–100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 15 Rue de la Loi B–1040 Brussels, Belgium, telephone 513.38.30, extension 2710, or John J. Maher, New York Aircraft Certification Office ANE–172, Aircraft Certification Division, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6221.

SUPPLEMENTARY INFORMATION: On December 11, 1987, priority letter AD 87–25–10, was issued and made effective immediately as to all known U.S. owners and operators of certain GROB models G103 Twin II and G103A Twin II ACRO gliders. The AD required inspection for widened or cracked bearing rings and rudder lever deformation, and replacement of the lever. AD action was necessary to prevent failure of the rudder control system and possible loss of the glider.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual priority letter, issued December 11, 1987, to all known U.S. owners and operators of certain GROB MODEL G103 Twin II AND G103A Twin II ACRO gliders. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Conclusion: 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 Executive 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, Incorporation by Reference.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

GROB: Applies to GROB Models G103 TWIN II and G103A TWIN II ACRO gliders, Serial Nos. 3730 through 3878, and Serial Nos. 33879 through 34078 (ACRO with supplement K), certificated in all categories.

Compliance is required, as indicated, unless already accomplished.

To prevent failure of the rudder lever, which could result in the glider becoming uncontrollable, accomplish the following:

(a) Within the next 5 hours time in service after the effective date of this AD, unless compliance with Paragraph (c) has been accomplished, visually inspect the rudder lever, P/N 103B-4430, using a 10 power or greater magnifying glass and flashlight in accordance with Paragraph 1 of GROB Repair Instruction No. 315-33/1 for Service Bulletin (SB) TM 315-33, dated August 3, 1987.

(b) Replace damaged parts before further flight, with rudder lever, P/N 103B-4430/1, and two rudder stop screws, M 6 × 45 (mm), in accordance with GROB Repair Instruction No. 315-33/2 for SB TM 315-33, dated August 3, 1987.

(c) Prior to March 15, 1988, replace any rudder lever and rudder stop screws not replaced in accordance with Paragraph (b) of this AD with rudder lever, P/N 103B-4430/1, and two rudder stop screws, M 6 × 45 (mm), in accordance with GROB Repair Instruction No. 315-333/2 for SB TM 315-33, dated August 3, 1987.

(d) Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium, or the Manager, New York Aircraft Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

(f) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, or the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

GROB Repair Instructions No. 315-33/1 and /2 for SB TM 315-33, dated August 3, 1987, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to GROB Systems, Inc., Aircraft Division, I-75 and Airport Drive, Bluffton, Ohio 45817.

These documents may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Docket No. 87-ANE-45, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

This amendment becomes effective April 15, 1988, as to all persons except those persons to whom it was made immediately effective by individual priority letter AD 87-25-10, issued December 11, 1987, which contained this amendment.

Issued in Burlington, Massachusetts, on March 9, 1988.

Timothy P. Forté,

Acting Director, New England Region.

[FR Doc. 88-8265 Filed 4-14-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Kanamycin, Amphomycin, and Hydrocortisone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is editorially amending the animal drug regulations to reflect the amphomycin specifications of the product kanamycin sulfate, calcium amphomycin, and hydrocortisone acetate. Fort Dodge Laboratories holds an approved new animal drug application (NADA) for use of this product topically on dogs.

EFFECTIVE DATE: April 15, 1988.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Section 524.1204(a)(2) (21 CFR 524.1204(a)(2)) provides that calcium amphomycin shall conform to certain specifications in 21 CFR 455.3(a)(1). However, FDA has removed section 455.3 from its regulations (50 FR 47212 at 47214; November 15, 1985). In removing this section, the agency inadvertently failed to incorporate the specifications referenced in § 524.1204(a)(2) directly into that regulation. This document amends 21 CFR 524.1204(a)(2) to correct this inadvertent error.

List of Subjects in 21 CFR Part 524

Animal drugs.

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

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

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

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

2. Section 524.1204 is amended by revising paragraph (a)(2) to read as follows:

§ 524.1204 Kanamycin sulfate, calcium amphomycin, and hydrocortisone acetate.

(a) * * *

(2) Calcium amphomycin is the calcium salt of amphomycin. It conforms to the following specifications:

(i) Its potency is not less than 863 micrograms of amphomycin per milligram;

(ii) Its moisture content is not more than 10 percent; and

(iii) Its pH in a 2-percent aqueous suspension is 6.0 to 7.5.

* * * * *

Dated: April 11, 1988.

Richard A. Carnevale,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 88-8270 Filed 4-14-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8194]

Income Tax; Nonaccrual-Experience Method of Accounting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the nonaccrual-experience method of accounting. The Tax Reform Act of 1986 added the nonaccrual-experience method of accounting to the law. These regulations affect taxpayers using the nonaccrual-experience method of accounting and provide them with guidance needed to comply with the law. The text of the temporary regulations contained in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the Federal Register.

DATES: The regulations contained in this document are effective December 31, 1986, and apply to taxable years beginning after such date.

FOR FURTHER INFORMATION CONTACT: Katherine Lee Wambsgans of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T (202–566–3288, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Temporary Income Tax Regulations (26 CFR Part 1) relating to the nonaccrual-experience method under section 448(d)(5) of the Internal Revenue Code of 1986. Section 801 of the Tax Reform Act of 1986 (the Act) (Pub. L. 99–514, 100 Stat. 2085) added section 448(d)(5) to the Code.

Explanation of Provisions

Section 448(d)(5) provides that taxpayers who use an accrual method of accounting need not accrue any amounts (accounts receivable) to be received from the performance of services if, on the basis of experience, such amounts will not be collected. On June 16, 1987, the Service published temporary regulations under section 448(d)(5), relating to the nonaccrual-experience method (52 FR 22764, T.D. 8143). Those temporary regulations also served as a notice of proposed rulemaking (52 FR 22796).

Under the nonaccrual-experience method of accounting, the portion of a receivable that is considered uncollectible and not required to be accrued is the product of the receivable and a fraction representing the taxpayer's bad debt experience. The numerator of the fraction is the taxpayer's bad debts for the taxpayer's current and five preceding taxable years, and the denominator of the fraction is the taxpayer's accounts receivable for the same six-year period. The Internal Revenue Service has received questions from taxpayers as to whether the denominator of the fraction is determined on the basis of (i) total accounts receivable earned throughout the six-year period (i.e., the total amount of sales resulting in accounts receivable throughout the period) or (ii) year-end balances of the accounts receivable over the six-year period. These regulations provide that the denominator is based on total accounts receivable earned throughout the period ending at the close of the six-year period. This interpretation is consistent with the legislative history of the Act which provides that "[t]he amount of billings that, on the basis of experience, will not be collected is equal to the total amount billed, multiplied by a fraction whose numerator is the total amount of such receivables which were billed and determined not to be collectible within the most recent five taxable years of the taxpayer, and whose denominator is the total of such amounts billed within the same five year period." H.R. Rep. No. 99–426, 99th Cong., 1st Sess. 608 (1985). These regulations only apply to the determination of a taxpayer's bad debt experience under section 448. These regulations do not apply to any other provision of law including, for example, computations of a taxpayer's reserve for bad debts under section 585 of the Code.

These regulations are effective for taxable years beginning after December 31, 1986. Nevertheless, a taxpayer will not be liable for the addition to tax under section 6654 or 6655 (relating to failure to pay estimated tax) for an increase in income for the period before May 16, 1988, attributable to the computation of the bad debt experience ratio using accounts receivable earned throughout the period ending at the close of the six-year period, rather than the computation of the ratio using year-end balances of accounts receivable over the six-year period.

Regulatory Flexibility Act

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, these temporary regulations are not subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Executive Order 12291

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Drafting Information

The principal author of these temporary regulations is Ewan D. Purkiss of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.441–1–1.483–2

Income taxes, Accounting, Deferred compensation plans.

Adoption of Amendments to the Regulations

For the reasons set out in the preamble, Title 26, Chapter 1, Subchapter A, Part 1 of the Code of Federal Regulations is amended as set forth below:

PART 1—[AMENDED]

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

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.448–2T is amended by revising the first sentence of paragraph (e)(2)(i), by revising example (1) in paragraph (e)(4), and by adding a new paragraph (e)(5) to read as follows:

§ 1.448–2T Nonaccrual of certain amounts by service providers (temporary).

* * * * *

(e) * * *

(2) *Six-year moving average*—(i) *General rule.* For any taxable year the uncollectible amount of a receivable is the amount of that receivable which bears the same ratio to the account receivable outstanding at the close of the taxable year as (A) the total bad debts (with respect to accounts receivable) sustained throughout the period consisting of the taxable year and the five preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to (B) the sum of the accounts receivable earned throughout the entire six (or

fewer) taxable year period (i.e., the total amount of sales resulting in accounts receivable) throughout the period. * * * * * * * * *

(4) *Examples* * * *

Example (1). X is a calendar year service provider that uses an accrual method of accounting with respect to the amounts (accounts receivable) to be received from the provision of services. X does not require the payment of interest or penalties with respect to past due accounts receivable. Assume that under this section, X adopts for taxable year 1987 the nonaccrual-experience method of accounting with respect to its accounts receivable. Further, assume that X's total accounts receivable and bad debt experience for the current and five preceding taxable years is as follows:

Years	Total accounts receivable	Bad debts adjusted for recoveries
1982	$30,000	$5,700
1983	40,000	7,200
1984	50,000	11,000
1985	60,000	10,200
1986	70,000	14,000
1987	80,000	16,800
	330,000	64,900

Thus, the ratio of the bad debts (adjusted for recoveries) for the current and five preceding taxable years to the total accounts receivable over the same period is 19.67% ($64,900/$330,000). Assume that $49,300 of the total $80,000 of accounts receivable earned throughout the taxable year 1987 are outstanding as of the close of such year. Assume further that the $49,300 of the accounts receivable outstanding as of the close of the tax year 1987 consist of 10 separate accounts receivable. The uncollectible amount of each receivable is 19.67%. The amount of these accounts receivable and the uncollectible amount of each is as follows:

	Accounts receivable	Applicable ratio	Uncollectible amount
1.	$5,200	.1967	$1,022.84
2.	7,300	.1967	1,435.91
3.	3,200	.1967	629.44
4.	4,300	.1967	845.81
5.	1,700	.1967	334.39
6.	4,000	.1967	786.80
7.	6,300	.1967	1,239.21
8.	8,000	.1967	1,573.60
9.	3,200	.1967	629.44
10.	6,100	.1967	1,199.87
	49,300		9,697.31

For taxable year 1987, X will not accrue as income $9,697.31 of its accounts receivable of $49,300 outstanding as of the close of the year.

* * * * * *

(5) *Special rule for estimated tax.* For purposes of section 6654 or 6655 only (relating to the addition to tax for underpayment of estimated tax), a taxpayer's income does not include eligible income attributable to the period before May 16, 1988. A taxpayer's eligible income is the excess (if any) of—

(i) Income (including the amount of any adjustment required under section 481(a)) computed with a bad debt experience ratio using accounts receivable earned throughout the period ending at the close of the six-year period (or other shorter period) described in paragraph (e)(2)(i) of this section, over

(ii) Income (including the amount of any adjustment required under section 481(a)) computed with a bad debt experience ratio using the year-end balances of accounts receivable over such six-year (or other shorter) period.

* * * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason it is impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: April 1, 1988.

Dennis E. Ross,

(Acting) Assistant Secretary of the Treasury.

[FR Doc. 88-8338 Filed 4-14-88; 8:45 am]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of May 1988.

EFFECTIVE DATE: May 1, 1988.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8820 (202-778-8859) for TTY and TTD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the

table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month:—	The values of i_k are:—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
*		*		*		*		*			*			*		
May 1988	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Royal S. Dellinger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-8286 Filed 4-14-88; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy has (1) determined that USS FLETCHER (DD 992) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer; (2) directed that certain naval ships and classes of ships be deleted from the tables in the existing Part 706; and (3) directed that certain corrections and deletions be made to one of the tables in the existing Part 706. The intended effect of its rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 23, 1988.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS FLETCHER (DD 992) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval destroyer. The Under Secretary of the Navy has also certified that the above mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided that the Under Secretary of the Navy has determined that certain naval ships and classes of ships listed in the existing tables of 32 CFR Part 706 may be deleted from those tables because those ships and classes of ships have been stricken from the Naval Vessel Register or removed from active operational service.

Notice is also provided that the Under Secretary of the Navy has determined that the existing Table Four of 32 CFR 706.2 should be revised to correct errors contained therein, to remove paragraphs that are no longer required, and to delete certain naval ships that have been stricken from the Naval Vessel Register.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on USS FLETCHER (DD 992) in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by removing the following ships:

USS ALACRITY (AG-520)
USS ASSURANCE (AG-521)
USS PLAINVIEW (AGEH-1)
USS TANG (AGSS-563)
USS DASH (MSO-428)
USS DETECTOR (MSO-429)
USS DIRECT (MSO-43)
USS DOMINANT (MSO-431)
USS ANTELOPE (PG-86)
USS READY (PG-87)
USS GRAND RAPIDS (PG-100)
USS DOUGLAS (PG-100)
USS TANG (SS-563)
USS WAHOO (SS-565)
USS TROUT (SS-566)
USS GUDGEON (SS-567)
USS SAILFISH (SS-572)
USS GRAYBACK (SS-574)
USS NAUTILUS (SSN-571)
USS SEAWOLF (SSN-575)
USS SKATE (SSN-578)
USS SEADRAGON (SSN-584)
USS SNOOK (SSN-592)
USS GEORGE WASHINGTON (SSBN-598)
USS PATRICK HENRY (SSBN-599)
USS THEODORE ROOSEVELT (SSBN-600)
USS ROBERT E. LEE (SSBN-601)
USS ABRAHAM LINCOLN (SSBN-602)
USS ETHAN ALLEN (SSBN-608)
USS THOMAS A. EDISON (SSBN-610)
USS THOMAS JEFFERSON (SSBN-618)
USS NATHAN HALE (SSBN-623)

3. Table Three of § 706.2 is amended by removing the following ships:

USS TANG (AGSS-563)
USS WAHOO (SS-565)
USS TROUT (SS-566)
USS GUDGEON (SS-567)
USS SAILFISH (SS-572)
USS SALMON (SS-573)
USS GREYBACK (SS-574)
USS NAUTILUS (SSN-571)
USS SEAWOLF (SSN-575)
USS SKATE (SSN-578)
USS SEADRAGON (SSN-584)
USS SNOOK (SSN-592)

USS GEORGE WASHINGTON (SSBN–598)
USS PATRICK HENRY (SSBN–599)
USS THEODORE ROOSEVELT (SSBN–600)
USS ROBERT E. LEE (SSBN–601)
USS ABRAHAM LINCOLN (SSBN–602)
USS ETHAN ALLEN (SSBN–608)
USS THOMAS A. EDISON (SSBN–610)
USS THOMAS JEFFERSON (SSBN–618)
USS NATHAN HALE (SSBN–623)

4. Table Four of § 706.2 is amended by revising the existing paragraph 2 to read as follows:

* * * * *

2. To provide all-round visibility, the lights required by Rules 27 (a) and (b) will consist of two lights, one light port and one light starboard on the mast or superstructure at each location in the vertical array.

* * * * *

5. Table Four of § 706.2 is amended by revising the existing paragraph 3 to read as follows:

* * * * *

3. The second masthead light required by Rule 23(a)(ii) and the lights and shapes required by Rules 24, 27, and 30(d)(i) are not displayed by submarines.

* * * * *

6. Table Four of § 706.2 is amended by removing the existing paragraph 4.

7. Table Four of § 706.2 is amended by redesignating the existing paragraph 5 as paragraph 4 and removing from the redesignated paragraph 4 the following ships:

USS DASH (MSO–428)
USS DETECTOR (MSO–429)
USS DIRECT (MSO–430)
USS DOMINANT (MS–431)

8. Table Four of § 706.2 is amended by redesignating the existing paragraph 6 as paragraph 5.

9. Table Four of § 706.2 is amended by redesignating the existing paragraph 7 as paragraph 6 and removing from the redesignated paragraph 6 the following ships:

USS SHENANDOAH (AD–26)
USS BRYCE CANYON (AD–27)

10. Table Four of § 706.2 is amended by redesignating the existing paragraphs 8 and 9 as paragraphs 7 and 8.

11. Table Four of § 706.2 is amended by removing the existing paragraphs 10, 11, 12, and 13.

12. Table Four of § 706.2 is amended by redesignating the existing paragraph 14 as paragraph 9.

13. Table Four of § 706.2 is amended by removing the existing paragraphs 15 and 16.

14. Table Four of § 706.2 is amended by redesignating the existing paragraph 17 as paragraph 10.

15. Table Four of § 706.2 is amended by removing the existing paragraph 18.

16. Table Four of § 706.2 is amended by redesignating the existing paragraph 19 as paragraph 11.

17. Table Four of § 706.2 is amended by redesignating the existing paragraph 20 as paragraph 12 and by revising the redesignated paragraph 12 to read as follows:

* * * * *

12. On the following ships, two lights are installed at the same level, one fore and one aft, high on the mast to provide the closest possible compliance to the all-around anchor light visibility required by Rule 30(b) and Annex I, section 9(b):

USS PEGASUS (PHM–1)
USS HERCULES (PHM–2)
USS TAURUS (PHM–3)
USS AQUILA (PHM–4)
USS ARIES (PHM–5)
USS GEMINI (PHM–6)

* * * * *

18. Table Four of § 706.2 is amended by removing the existing paragraph 21.

19. Table Four of § 706.2 is amended by redesignating the existing paragraphs 22 and 23 as paragraphs 13 and 14.

20. Table Five of § 706.2 is amended by revising the existing entry for USS FLETCHER (DD–992) to read as follows:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	Aft masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
*	*	*	*	*	*	*	*	*	*
USS FLETCHER	DD–992	.....	.....	.....	.....	.....	x	x	46
*	*	*	*	*	*	*	*	*	*

§ 706.3 [Amended]

21. Table One of § 706.3 is amended by removing the following ships and classes of ships:

USNS KINGSPORT (T-AG-164)
USNS WHEELING (T-AGM-8)
USNS ARNOLD (T-AGM-9)
USNS BROSTROM (T-AK-255)
USNS TOWLE (T-AK-240)
USNS BLAND (T-AK-277)
USNS NORWALK (T-AK-279)
USNS VICTORIA (T-AK-281)
COLUMBIA CLASS (T-AO-182-185)
SS-563 CLASS
USS GRAYBACK (SS-574)
USS NAUTILUS (SSN-571)
USS SEAWOLF (SSN-575)
USS OKLAHOMA CITY (CG-5)
CG–10 CLASS
DD–710 CLASS
DDG–35 CLASS
SSBN–598 CLASS
AG–520 CLASS
USS PLAINVIEW (AGEH–1)
USS TANG (AGSS–563)

Date: March 23, 1988.

Approved.

H. Lawrence Garrett III,

Acting Secretary of the Navy.

[FR Doc. 88-8349 Filed 4-14-88; 8:45 am]

BILLING CODE 3810-AE-M

PANAMA CANAL COMMISSION

35 CFR Part 103

General Provisions Governing Vessels

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: The Panama Canal Commission is today amending its regulations in Title 35, Code of Federal Regulations, § 103.6(e)(1) concerning the maximum overall lengths for vessels which transit the Panama Canal. This action is necessary due to an increase in

the number of vessels being accepted for transit by Canal authorities when their length exceeds that permitted by current regulations. The effect will be to recognize the increasing growth in size of commercial vessels by permitting them transit on a regular basis, thereby conforming regulations to the practice that has developed.

EFFECTIVE DATE: April 15, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, telephone: (202) 634–6441, or Mr. John Haines, Jr., General Counsel, Balboa Heights, Republic of Panama, telephone: 011–507–52–7511.

SUPPLEMENTARY INFORMATION: On February 16, 1988, a notice of proposed rulemaking was published in the **Federal Register** (53 4424) setting forth the proposed amendments to the rules governing provisions for length of vessels. Interested parties were given the opportunity to submit comments on or before March 17, 1988. No comments were received during the period.

Following is a summary of how the rules published today will modify the rules which have been in effect concerning the maximum overall lengths for vessels which transit the Panama Canal.

Present Commission regulations in 35 CFR 103.6(e)(1) restrict regular transits to (1) commercial vessels whose overall maximum length, including bulbous bow, does not exceed 900 feet, and (2) to passenger and container ships whose overall length does not exceed 950 feet. Depending on their characteristics, vessels exceeding these limits have been authorized single transits at the discretion of Canal authorities, subject to special conditions to ensure the safety and continiuty of regular Canal operations.

There has been a gradual increase in the number of exceptions granted to vessels that exceed the limitations set forth above and recurring requests for these vessels to transit on a regular basis, without the need for authorization for individual transits. A study of Canal operating procedures indicates that an increase in maximum length by 50 feet, from 900 feet to 950 feet may be acceptable on certain commercial vessels. Similarly, an increase of 15 feet, from 950 feet to 965 feet is considered acceptable for transit of passenger and container ships.

In view of this determination, therefore, the Commission is revising paragraph (e)(1) of § 103.6 to permit the Commission to accept for regular transit commercial vessels whose maximum length overall, including bulbous bow, is 950 feet, except that passenger and container ships may be 965 feet in overall length. To insure a safe passage, vessels greater than 900 feet in length overall, which are transiting for the first time or are newly-modified vessels or newly-constructed vessels are still subject to denial of passage pursuant to section 103.2 and to the requirement of prior review and approval of vessel plans by Canal authorities.

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are, first, that the rule, when implemented, would not have an annual effect on the economy of $100 million or more per year, and secondly, that the rule would not result in a major increase in costs or prices for consumers, individual industries, local governmental agencies or geographic regions.

Further, the agency has determined that implementation of the rule will have no adverse effect on competition, employment, investment, productivity, innovation or the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Commission has determined that this rule is not subject to the requirements of sections 603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a substantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

List of Subjects in 35 CFR, Part 103

Panama Canal, Vessels, Marine safety, Navigation.

Accordingly, Title 35, Code of Federal Regulations, Part 103, is amended as follows:

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

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

Authority: 22 U.S.C. 3811, E.O. 12215, 45 FR 36043.

2. Section 103.6 is amended by revising paragraph (e)(1), to read as follows:

§ 103.6 Size and draft limitations of vessels.

* * * * *

(e) Maximum length. (1) The maximum length overall, including bulbous bow, for a commercial vessel acceptable for regular transit is 950.0 feet, except passenger and container ships, which may be 965.0 feet in overall length. In order to insure a safe passage, vessels exceeding 900.0 feet in overall length, which are transiting the Canal for the first time or are newly-modified or newly-constructed vessels, are subject to denial of passage pursuant to § 103.2 and to the requirement of prior Commission review and approval of vessel plans in accordance with Canal regulations.

* * * * *

Dated: April 12, 1988

D.P. McAuliffe,

Administrator, Panama Canal Commission.

[FR Doc. 88–8366 Filed 4–14–88; 8:45 am]

BILLING CODE 3640–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL–3366–1]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants; South Dakota and Colorado; Delegation of Authority

AGENCY: Environmental Protection Agency.

ACTION: Delegation of authority.

SUMMARY: EPA is today providing notice that it granted delegation of authority to South Dakota on March 26, 1987, to implement and enforce (1) the New Source Performance Standards (NSPS) for metallic and nonmetallic mineral processing plants (40 CFR Part 60, Subparts LL and OOO, respectively) and (2) the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for asbestos (40 CFR Part 61, Subpart M). This is a result of requests for delegation from the State of South Dakota on March 27, 1986, for the NESHAP and on April 23, 1986, for the NSPS.

EPA is also today providing notice that it granted delegation of authority to Colorado on September 30, 1987, to implement and enforce the NSPS for industrial-commercial-institutional steam generating units; basic oxygen process steelmaking facilities (secondary emissions); nonmetallic mineral processing plants; natural gas processing plants (equipment leaks of VOC); natural gas processing plants (SO_2 emissions); wool fiberglass insulation manufacturing plants (40 CFR Part 60, Subparts Db, Na, OOO, KKK, LLL and PPP, respectively); pressure sensitive tape and label surface coating operations; metallic mineral processing

plants; synthetic organic chemicals manufacturing industry (equipment leaks of VOC); flexible vinyl and urethane coating and printing; petroleum refineries (equipment leaks of VOC); synthetic fiber production facilities; and petroleum dry cleaners (40 CFR Part 60, Subparts RR, LL, VV, FFF, GGG, HHH and JJJ, respectively).

The first six NSPS are a result of a request for delegation from the State of Colorado on August 19, 1987. The latter seven NSPS were adopted by the State of Colorado on July 11, 1985, but had never been officially delegated to the State of Colorado. EPA is acting on them at this time. EPA is also today updating the State addresses shown in 40 CFR 60.4(b) and 40 CFR 61.04(b).

EFFECTIVE DATE: March 26, 1987, for South Dakota. September 30, 1987, for Colorado.

ADDRESSES: Copies of the revisions are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver Colorado 80202-2405.

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

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, Environmental Protection Agency, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1764, (FTS) 564-1764.

SUPPLEMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act permit EPA to delegate to the States the authority to implement and enforce the standards set forth in 40 CFR Part 60, NSPS, and 40 CFR Part 61, NESHAP.

South Dakota

On March 25, 1976 (see 41 FR 17600, April 27, 1976), EPA delegated to the State of South Dakota the authority to implement and enforce the following categories of NSPS: Incinerators; portland cement plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; and sewage treatment plants.

On October 16, 1980, the State of South Dakota submitted a State Implementation Plan (SIP) revision to EPA. This revision, among other things, added several NSPS to the Administrative Rules of South Dakota (ARSD). Additionally, several NSPS that had been included in the ARSD at the time of the original delegation (March 25, 1976) were omitted. Those NSPS added to ARSD included: Fossil fuel-fired steam generators; fossil fuel-fired electric utility generators; coal preparation plants; grain elevators; lime manufacturing plants; and stationary gas turbines. Those NSPS that were omitted from ARSD included: Petroleum refineries; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; and sulfuric acid plants. The EPA approved these revisions on November 3, 1981 (46 FR 54541).

On September 17, 1984 (49 FR 36368), EPA published a list of the delegation status of NSPS and NESHAP in Region VIII. The State of South Dakota was shown to have the authority to implement and enforce the following NSPS: General provisions; fossil fuel-fired steam generating units constructed after August 17, 1971; electric utility steam generating units constructed after September 18, 1975; incinerators; portland cement plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids constructed after June 11, 1973 and prior to May 19, 1978; sewage treatment plants; coal preparation plants; grain elevators; stationary gas turbines; lime manufacturing plants, and nitric acid plants. Nitric acid plants, however, should not have been shown in the **Federal Register** notice. Its appearance was an error.

On April 23, 1986, the State of South Dakota requested the authority to implement and enforce the NSPS for metallic mineral processing plants and nonmetallic mineral processing plants. On March 27, 1986, the State of South Dakota requested the authority to implement and enforce the NESHAP for asbestos. Pursuant to these requests, on March 26, 1987, delegation was given with the following letter:

Mr. Joel C. Smith,
Division of Water and Natural Resource Management, Department of Water and Natural Resources, Joe Foss Building, Pierre, SD 57501

Dear Mr. Smith: This is in response to your letters of April 23, 1986, and March 27, 1986, which requested authority to implement and enforce additional categories of the Standards of Performance for New Stationary Sources (NSPS) and one of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) programs, respectively.

Specifically, in your letter of April 23, 1986, you requested that EPA delegate authority for implementation and enforcement of the NSPS categories outlined in 40 CFR § 60.380 to 60.386, inclusive (Part 60, Subpart LL), entitled "Standards of Performance for Metallic Mineral Processing Plants", and 40 CFR § 60.670 to 60.676, inclusive (Part 60, Subpart OOO), entitled "Standards of Performance for Nonmetallic Mineral Processing Plants". In your letter of March 27, 1986, you requested authority to implement and enforce the provisions of 40 CFR § 61.140 to 61.156, inclusive (Part 61, Subpart M), entitled "Emission Standards for Asbestos Air Pollutants".

We have reviewed the pertinent laws of the State of South Dakota and the rules and regulations thereof, and have determined that they provide an adequate and effective procedure for implementation of the NSPS and NESHAPs by the State of South Dakota. Therefore, we hereby delegate our authority for the implementation and enforcement of NSPS and NESHAPs to the State of South Dakota as follows:

A. Authority for all sources located or to be located in the State of South Dakota subject to the NSPS for Subpart LL and Subpart OOO promulgated in 40 CFR Part 60 as of the date of this letter.

B. Authority for all sources located or to be located in the State of South Dakota subject to the NESHAPs for Subpart M promulgated in 40 CFR Part 61 as of the date of this letter.

Certain authorities of NSPS and NESHAPS cannot be delegated to states under Sections 111 and 112 of the Clean Air Act. Examples include: (1) equivalency determinations; (2) alternative test methods; (3) decisions where federal oversight is needed to ensure national consistency; and (4) decisions that require rulemaking to implement. Therefore, the following is a list of provisions of Part 61, Subpart M where the authority to implement is retained by the Administrator: § 61.151(c)(2), § 61.152(b)(3), § 61.153(c), § 61.154(b)(2), and § 61.156(d).

The delegation is based upon the same conditions as those stated in our letter of March 25, 1976, except that condition 3 of that letter, relating to federal facilities, has been voided by the Clean Air Act Amendments of 1977. A copy of the March 25, 1976, letter was published in the Notices section of the **Federal Register** of April 27, 1976 (76 FR 12246), along with the associated rulemaking notifying the public that certain reports and applications required from operators of new sources shall be submitted to the State of South Dakota. A notice announcing this delegation will be published in the **Federal Register** in the near future.

Sincerely,

Alexandra B. Smith,
Acting Regional Administrator.

On November 19, 1987, EPA requested clarification from the State on several NSPS that were delegated to the State in the past but no longer appeared in the ARSD. The State responded on January 8, 1988, stating that, in fact, the NSPS regulations in question had been deleted from ARSD. Therefore, EPA is rescinding the delegation for the following NSPS because the State no longer has regulations to implement and enforce them: Sulfuric acid plants; petroleum refineries; secondary lead

smelters; secondary brass and bronze ingot production plants; iron and steel plants; and nitric acid plants.

In summary, the NSPS and NESHAP that the EPA has delegated to the State of South Dakota to implement and enforce are shown in the tables below.

Colorado

On August 27, 1975 (see 40 FR 50748, October 31, 1975), EPA delegated to the State of Colorado the authority to implement and enforce the following categories of NSPS: Fossil fuel-fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; and sewage treatment plants.

On September 17, 1984 (49 FR 36368), EPA published a list of the delegation status of NSPS for Region VIII. The State of Colorado was shown to have the authority to implement and enforce the above mentioned NSPS plus the following NSPS: General provisions; electric utility steam generators; storage vessels for petroleum liquids constructed after June 11, 1973 and prior to May 19, 1978; storage vessels for petroleum liquids constructed after May 18, 1978; primary copper smelters; primary zinc smelters; primary lead smelters; primary aluminum reduction plants; phosphate fertilizer industry (wet process phosphoric acid plants—super phosphoric acid plants—diammonium phosphate plants—triple super phosphate plants—granular triple super phosphate storage facilities); coal preparation plants; ferralloy production facilities; steel plants (electric arc furnaces); kraft pulp mills; glass manufacturing plants; grain elevators; surface coating of metal furniture; stationary gas turbines; lime manufacturing plants; lead-acid battery manufacturing plants; automobile and light duty surface coating operations; phosphate rock plants; ammonium sulfate manufacturing; graphic arts publication rotogravure printing; industrial surface coating (large appliances); metal coil surface coating; asphalt processing and roofing manufacturing; beverage can coating; and bulk gasoline terminals.

On August 19, 1987, the State of Colorado requested the authority to implement and enforce the following NSPS: Industrial-commercial institutional steam generating units; basic oxygen process steelmaking facilities (secondary emissions); nonmetallic mineral processing plants; natural gas processing plants (equipment leaks of VOC); Natural gas processing plants (SO_2 emissions); and wool fiberglass insulation manufacturing. EPA also noted, at the time of this submittal, that there were seven additional NSPS which were adopted by the State on July 11, 1985, but for which authority to implement and enforce had not been officially delegated to the State of Colorado. The seven NSPS included: Pressure sensitive tape and label surface coating operations; metallic mineral processing plants; synthetic organic chemical manufacturing industry (equipment leaks of VOC); flexible vinyl and urethane coating and printing; petroleum refineries (equipment leaks of VOC); synthetic fiber production facilities; and petroleum dry cleaners.

Delegation of these thirteen standards was made on September 30, 1987.

Delegation was given with the letter below:

Honorable Roy Romer,
Governor of Colorado, Executive Chambers, 136 State Capitol, Denver, Colorado 80203–1792

Dear Governor: This is in response to your letter dated August 19, 1987, which submitted Colorado's Revised Regulation No. 6, New Source Performance Standards (NSPS). This submittal included the addition of six new NSPS to Colorado's regulations. Subsequent to states adopting NSPS, it is the Environmental Protection Agency's (EPA) policy to delegate the authority for the implementation and enforcement of the NSPS. Following the review of the above mentioned submittal, we noted that there were seven additional NSPS for which authority for implementation and enforcement had not been officially delegated to the State of Colorado. Therefore, at this time we are acting on the delegation of authority for the implementation and enforcement of 13 NSPS.

We have reviewed the pertinent laws of the State of Colorado and the rules and regulations thereof, and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS by the State of Colorado. Therefore, pursuant to Section 111(c) of the Clean Air Act (CAA), as amended, and 40 CFR 60, I hereby delegate our authority for the implementation and enforcement of the NSPS to the State of Colorado as follows:

(A) Responsibility for all sources located, or to be located, in the State of Colorado subject to the standards of performance for new stationary sources promulgated in 40 CFR 60.

These categories of new stationary sources covered by this delegation are as follows: Industrial-Commercial-Institutional Steam Generating Units; Basic Oxygen Process Steelmaking Facilities (secondary emissions); Nonmetallic Mineral Processing Plants; Natural Gas Processing (equipment leaks of VOC); Natural Gas Processing Plants: SO_2 Emissions; Wool Fiberglass Insulation Manufacturing Plants; Pressure Sensitive Tape and Label Surface Coating Operations; Metallic Mineral Processing Plants; Synthetic Organic Chemical Manufacturing Industry (equipment leaks of VOC); Flexible Vinyl and Urethane Coating and Printing; Petroleum Refineries (equipment leaks of VOC); Synthetic Fiber Production Facilities; and Petroluem Dry Cleaners.

(B) Not all authorities of NSPS can be delegated to states under Section 111 of the CAA. The EPA Administrator retains the authority to implement those sections of NSPS that require: (1) approving equivalency determinations and alternative test methods; (2) decision making to ensure national consistency; (3) rulemaking to implement. Therefore, we cannot delegate to the State of Colorado the authority for the following:

(i) 40 CFR 60.634 (Section L.E. in Colorado Regulation No. 6) pertains to Equipment Leaks of VOC from Natural Gas Processing Plants;

(ii) 40 CFR 60.482–1(c)(2) and 60.484 (Sections XLIV.C.3.b and XLIV.O in Colorado Regulation No. 6) pertains to Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry;

(iii) 40 CFR 60.592(c) (Section XLIV.C.3. in Colorado Regulation No. 6) pertains to Equipment Leaks of VOC in Petroleum Refineries; and

(iv) 40 CFR 60.623 (Section XLVIII.D. in Colorado Regulation No. 6) pertains to Petroleum Dry Cleaners.

(C) EPA takes notice that Section I.I.2., pertaining to the initial compliance demonstration for the opacity standard is differentiated from 40 CFR 60.11(b) in the number of six minute readings that occur in the 3-hour period. However, EPA believes that the changes to the Federal regulations do not change their purpose and intent since 3-hours of observations will be conducted during the initial compliance demonstration.

This delegation is based upon and continues the same conditions as those stated in our letter of August 27, 1975, except that condition 3, relating to Federal facilities, has been voided by the Clean Air Act Amendments of 1977. It is also important to note that EPA retains concurrent enforcement authority as stated in condition 3 of our letter dated August 27, 1975. A copy of the August 27, 1975, letter was published in the Notices section of the **Federal Register** of October 31, 1975 (40 FR 50748), along with the associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Colorado (40 FR 50718). Copies of these **Federal Registers** are enclosed for your convenience. In addition, information received by the State of Colorado pursuant to 40 CFR 60.676(b), Section XLIX.G.2. in Colorado Regulation No. 6, pertaining to Nonmetallic Mineral Processing Plants, should be copied to the Director of the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you

within ten days of the date on which you receive this letter, the State of Colorado will be deemed to have accepted all the terms of this delegation.

Sincerely,

James J. Scherer,

Regional Administrator.

In summary, the NSPS, that the EPA has delegated to the State of Colorado to implement and enforce, are shown in the table below. In the next to the last paragraph in the August 27, 1975, letter above, EPA referenced a condition 3. Condition 3 in this letter is an error; it should be condition 2.

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Aluminum reduction, Ammonium sulfate plants, Asphalt, Asphalt concrete plants, Asphalt processing, and roofing manufacture, Basic oxygen process steelmaking, Brass, Bronze, Cement industry, Coal preparation plants, Copper, Copper smelters, Electric power plants, Electric utility steam generating units, Ferralloy, Fossil fuel-fired steam operators, Gasoline, Glass, Glass products, Glass manufacturing, Grains, Grain elevators, Graphic arts, Incinerators, Industrial-commercial-institutional steam generating units, Intergovernmental relations, Iron, Iron and steel plants, Lead, Lead smelters, Lead acid battery, Lime, Lime manufacturing, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Nonmetallic minerals, Paper and paper products industry, Petroleum, Petroleum refineries, Petroleum liquids storage vessels, Phosphate fertilizer industry, Primary copper smelters, Primary zinc smelters, Primary lead smelters, Primary aluminum reduction, Pulp mills, Phosphate rock, Portland cement, Secondary lead smelters, Secondary brass and bronze ingot production, Sewage disposal, Sewage treatment, Steel, Sulfuric acid plants, Turbines, Waste treatment and disposal, Zinc, Zinc smelters, Tires, Incorporation by reference, Surface coating, Industrial organic chemicals, Organic solvent cleaners, Fiberglass insulation, Synthetic fibers, Stationary gas turbines, Natural gas processing, Wool fiberglass, Metal furniture surface coaters, Automobile and light duty surface coaters, Publication rotogravure printing surface coaters, Metal coil surface coaters, Beverage can surface coaters, and flexible vinyl and urethane coaters and printers.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Authority: 42 U.S.C. 7411 and 7412.

Dated: March 31, 1988.

James J. Scherer,

Regional Administrator.

Part 60 of Chapter I, Title 40 of the *Code of Federal Regulations* is amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7411 and 7412.

Subpart A—General Provisions

§ 60.4 [Amended]

2. Section 60.4(b)(G) is revised to read as follows:

(b) * * *

(G) State of Colorado, Department of Health, Air Pollution Control Division, 4210 East 11th Avenue, Denver, CO 80220

Editorial Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

3. Section 60.4(b)(BB) is revised to read as follows:

(b) * * *

(BB) State of Montana, Department of Health and Environmental Services, Air Quality Bureau, Cogswell Building, Helena, MT 59601

Editorial Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

4. Section 60.4(b)(JJ) is revised to read as follows:

(b) * * *

(JJ) State of North Dakota, State Department of Health and Consolidated Laboratories, Division of Environmental Engineering, State Capitol, Bismarck, ND 58505

Editorial Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

5. Section 60.4(b)(QQ) is revised to read as follows:

(b) * * *

(QQ) State of South Dakota, Department of Water and Natural Resources, Office of Air Quality and Solid Waste, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181

Editorial Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

6. Section 60.4(b)(TT) is revised to read as follows:

(b) * * *

(TT) State of Utah, Department of Health, Bureau of Air Quality, 288 North 1460 West, P.O. Box 16690, Salt Lake City, UT 84116-0690

Editorial Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

7. Section 60.4(b)(ZZ) is revised to read as follows:

(b) * * *

(ZZ) State of Wyoming, Department of Environmental Quality, Air Quality Division, Herschler Building, 122 West 25th Street, Cheyenne, WY 82002

Editorial Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

* * * * *

8. Section 60.4(b) is amended by removing the table that shows the Delegation Status of New Source Performance Standards for Region VIII.

9. Section 60.4 is amended by adding paragraph (c) to read as follows:

(c) The following is a table indicating the delegation status of New Source Performance Standards for Region VIII.

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS

[(NSPS) for Region VIII]

Subpart	State					
	Colorado	Montana	North Dakota	South Dakota	Utah	Wyoming
A General provisions	(*)	(*)	(*)	(*)	(*)	
D Fossil fuel-fired steam generating units constructed after 8/17/71.	(*)	(*)	(*)	(*)	(*)	(*)
Da Electric utility steam generating units constructed after 9/18/75.	(*)	(*)	(*)	(*)	(*)	(*)
Db Industrial-commercial-institutional steam generating units.	(*)					

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS—Continued

[(NSPS) for Region VIII]

Subpart	State					
	Colorado	Montana	North Dakota	South Dakota	Utah	Wyoming
E Incinerators	(*)	(*)	(*)	(*)	(*)	(*)
F Portland cement plants	(*)	(*)	(*)	(*)	(*)	(*)
G Nitric acid plants	(*)	(*)	(*)		(*)	(*)
H Sulfuric acid plants	(*)	(*)	(*)		(*)	(*)
I Asphalt concrete plants	(*)	(*)	(*)	(*)	(*)	
J Petroleum refineries	(*)	(*)	(*)		(*)	(*)
K Storage vessels for petroleum liquids constructed after 6/11/73 prior to 5/19/78.	(*)	(*)	(*)	(*)	(*)	(*)
Ka Storage vessels for petroleum liquids constructed after 5/18/78.	(*)	(*)			(*)	(*)
L Secondary lead smelters	(*)	(*)			(*)	(*)
M Secondary brass and bronze ingot production	(*)	(*)			(*)	(*)
N Iron and steel plants	(*)	(*)			(*)	(*)
Na Basic oxygen process steelmaking facilities (secondary emissions).	(*)					
O Sewage treatment plants	(*)	(*)	(*)	(*)	(*)	(*)
P Primary copper smelters	(*)	(*)			(*)	(*)
Q Primary zinc smelters	(*)	(*)			(*)	(*)
R Primary lead smelters	(*)	(*)			(*)	(*)
S Primary aluminum reduction plants	(*)	(*)			(*)	(*)
T Phosphate fertilizer industry: Wet process phosphoric acid plants.	(*)	(*)	(*)		(*)	(*)
U Phosphate fertilizer industry: Super phosphoric acid plants.	(*)	(*)	(*)		(*)	(*)
V Phosphate fertilizer industry: Diammonium phosphate plants.	(*)	(*)	(*)		(*)	(*)
W Phosphate fertilizer industry: Triple super phosphate plants.	(*)	(*)	(*)		(*)	(*)
X Phosphate fertilizer industry: Granular triple super phosphate storage facilities.	(*)	(*)	(*)		(*)	(*)
Y Coal preparation plants	(*)	(*)	(*)	(*)	(*)	(*)
Z Ferralloy production facilities					(*)	
AA Steel plants: Electric arc furnaces	(*)	(*)			(*)	(*)
BB Kraft pulp mills	(*)	(*)			(*)	(*)
CC Glass manufacturing plants	(*)	(*)			(*)	(*)
DD Grain elevators	(*)	(*)	(*)	(*)	(*)	(*)
EE Surface coating of metal furniture	(*)	(*)			(*)	(*)
GG Stationary gas turbines	(*)	(*)	(*)	(*)	(*)	(*)
HH Lime manufacturing plants	(*)	(*)	(*)	(*)	(*)	(*)
KK Lead—Acid battery manufacturing plants	(*)				(*)	(*)
LL Metallic minerals	(*)			(*)	(*)	(*)
MM Automobile & light duty surface coating operations	(*)	(*)			(*)	(*)
NN Phosphate rock plants	(*)				(*)	(*)
PP Ammonium sulfate manufacturing	(*)	(*)			(*)	(*)
QQ Graphic arts: Publication rotogravure printing	(*)				(*)	(*)
RR Pressure sensitive tape and label surface coating operations.	(*)				(*)	
SS Industrial surface coating: Large appliances	(*)				(*)	(*)
TT Metal coil surface coating	(*)				(*)	(*)
UU Asphalt processing and roofing manufacturing	(*)				(*)	(*)
VV Synthetic organic chemical manufacturing: Equipment leaks of VOC.	(*)				(*)	
WW Beverage can coating	(*)				(*)	
XX Bulk gasoline terminals	(*)				(*)	
FFF Flexible vinyl and urethane coating and printing	(*)				(*)	
GGG Petroleum refineries (equipment leaks of VOC)	(*)				(*)	
HHH Synthetic fiber production	(*)				(*)	
JJJ Petroleum dry cleaners	(*)				(*)	
KKK Natural gas processing plants (equipment leaks of VOC).	(*)				(*)	
LLL Natural gas processing plants: S02 emission	(*)				(*)	
OOO Nonmetallic mineral processing	(*)			(*)	(*)	
PPP Wool fiberglass insulation manufacturing plants	(*)				(*)	

*Indicates delegation.

Part 61 of Chapter I, Title 40 of the *Code of Federal Regulations* is amended as follows:

PART 61—[AMENDED]

1. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 7412.

Subpart A—General Provisions

§ 61.04 [Amended]

2. Section 61.04(b)(G) is revised to read as follows:

(b) * * *

(G) State of Colorado, Department of Health, Air Pollution Control Division, 4210 East 11th Avenue, Denver, CO 80220

Editorial Note: For a table listing Region VIII's NESHAPs delegation status, see paragraph (c) of this section.

* * * * *

3. Section 61.04(b)(BB) is revised to read as follows:

(b) * * *

(BB) State of Montana, Department of Health and Environmental Services, Air Quality Bureau, Cogswell Building, Helena, MT 59601

Editorial Note: For a table listing Region VIII's NESHAPs delegation status, see paragraph (c) of this section.

* * * * *

4. Section 61.04(b)(JJ) is revised to read as follows:

(b) * * *

(JJ) State of North Dakota, State Department of Health and Consolidated Laboratories, Division of Environmental Engineering, State Capitol, Bismarck, ND 58505

Editorial Note: For a table listing Region VIII's NESHAPs delegation status, see paragraph (c) of this section.

* * * * *

5. Section 61.04(b)(QQ) is added to read as follows:

(b) * * *

(QQ) State of South Dakota, Department of Water and Natural Resources, Office of Air Quality and Solid Waste, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181

Editorial Note: For a table listing Region VIII's NESHAPs delegation status, see paragraph (c) of this section.

6. Section 61.04(b)(TT) is added to read as follows:

(b) * * *

(TT) State of Utah, Department of Health, Bureau of Air Quality, 288 North 1460 West, P.O. Box 16690, Salt Lake City, UT 84116-0690

Editorial Note: For a table listing Region VIII's NESHAPs delegation status, see paragraph (c) of this section.

7. Section 61.04(b) is amended by removing the table that shows the Delegation Status of National Emission Standards for Hazardous Pollutants (NESHAPs) in Region VIII.

8. Section 61.04 is amended by adding paragraph (c) to read as follows:

(c) The following is a table indicating the delegation status of National Emission Standards for Hazardous Air Pollutants in Region VIII.

DELEGATION STATUS OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

Subpart	State					
	Colorado	Montana	North Dakota	South Dakota	Utah	Wyoming
A General provisions	(*)		(*)		(*)	
M Asbestos	(*)		(*)	(*)	(*)	
C Beryllium	(*)		(*)		(*)	
D Beryllium rocket motor firing	(*)		(*)		(*)	
E Mercury	(*)		(*)		(*)	
F Vinyl chloride	(*)		(*)		(*)	

* Indicates delegation.

[FR Doc. 88-8302 Filed 4-14-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 704, 707, 710, 712, 716, 717, 720, 721, 723, 750, 761, 763, 790, 796, 797, and 799

[OPTS-00085; FRL-3365-3]

Toxic Substances Control Act Regulations; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: EPA is issuing technical amendments to some of the regulations under the Toxic Substances Control Act (TSCA). These amendments revise the mailing address for submitting information to, or requesting information from, the Office of Toxic Substances (OTS), correct obsolete or inaccurate cross-references and typographical errors, and remove obsolete provisions.

DATE: These amendments are effective April 15, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404.

SUPPLEMENTARY INFORMATION: This document makes technical amendments to the regulations in 40 CFR Subchapter R containing the provisions implementing TSCA (40 CFR Parts 700 to end). The technical amendments update the mailing addresses for submissions of information to, and requests for information from, the Office of Toxic Substances (OTS). The addresses currently listed in the regulations have been changed and should no longer be used. Updating applicable addresses will insure that OTS receives all submissions and information requests in a timely manner. These technical amendments also correct obsolete or incorrect cross-references to sections or paragraphs that have been redesignated, revised, or removed and correct typographical errors

Because these are non-substantive procedural changes, notice and public comment are not necessary and the changes are effective immediately.

List of Subjects in 40 CFR Parts 704, 707, 710, 712, 716, 717, 720, 721, 723, 750, 761, 763, 790, 796, 797, and 799

Chemicals, Environmental protection, Hazardous substances, Health and safety, Reporting and recordkeeping requirements.

Dated: March 28, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

Therefore, 40 CFR Chapter I, Subchapter R is amended as follows:

PART 704—[AMENDED]

1. In Part 704:

a. The authority citation for Part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 704.9 [Amended]

b. In § 704.9 by adding "Rm. L-100, after "(TS-790),".

PART 707—[AMENDED]

2. In Part 707:

a. The authority citation for Part 707 continues to read as follows:

Authority: 15 U.S.C. 2611(b) and 2612.

b. In § 707.65 by revising paragraph (c) to read as follows:

§ 707.65 Submission to agency.

* * * * *

(c) Notices shall be marked "Section 12(b) Notice" and sent to the TSCA Document Processing Center (TS-790), Rm. L-100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

PART 710—[AMENDED]

3. In Part 710:

a. The authority citation for Part 710 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 710.39 [Amended]

b. In § 710.39, paragraph (b) by adding "Rm. L–100," after "(TS–790),".

PART 712—[AMENDED]

4. In Part 712:

a. The authority citation for Part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 712.28 [Amended]

b. In § 712.28, paragraph (c), by adding "Rm. L–100," after "(TS–790),".

c. In § 712.30 by revising the last sentence in paragraph (c) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(c) * * * Any information submitted must be addressed to: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: 8(a) Auto-ITC.

* * * * *

PART 716—[AMENDED]

5. In Part 716:

a. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

§ 716.30 [Amended]

b. In § 716.30, paragraph (c), by adding "Rm. L–100," after "(TS–790),".

§ 716.35 [Amended]

c. In § 716.35, paragraph (c), by adding "Rm. L–100," after "(TS–790),".

6. In Part 717:

PART 717—[AMENDED]

a. The authority citation for Part 717 continues to read as follows:

Authority: 15 U.S.C. 2607(c).

§ 717.17 [Amended]

b. In § 717.17, paragraph (c), by adding "Rm. L–100," after "(TS–790),".

PART 720—[AMENDED]

7. In Part 720:

a. The authority citation for Part 720 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2613.

b. In § 720.75 by revising the first sentence in the introductory text of paragraph (b)(2) and the second sentence in paragraph (e)(1) to read as follows:

§ 720.75 Notice review period.

* * * * *

(b) * * *

(2) A request for suspension may be made in writing to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. * * *

* * * * *

(e) * * *

(1) * * * A statement of withdrawal must be made in writing to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. * * *

* * * * *

c. In § 720.95 by revising the last sentence to read as follows:

§ 720.95 Public file.

* * * Any of the nonconfidential material described in this Subpart will be available for public inspection in the TSCA Public Docket Office, Rm. NE–G004, 401 M St., SW., Washington, DC, between the hours of 8 a.m. and 4 p.m. weekdays, excluding legal holidays.

d. In § 720.102 by revising paragraph (d) to read as follows:

§ 720.102 Notice of commencement of manufacture or import.

* * * * *

(d) *Where to submit.* Notices of commencement of manufacture or import should be submitted to: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

* * * * *

PART 721—[AMENDED]

8. In Part 721:

a. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

b. In § 721.6 by revising the introductory text of paragraph (b) to read as follows:

§ 721.6 Applicability determination when the specific chemical identity is confidential.

* * * * *

(b) To establish a *bona fide* intent to manufacture, import, or process a chemical substance, the person who intends to manufacture, import, or process the chemical substance must submit the following in writing to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460:

* * * * *

PART 723—[AMENDED]

9. In Part 723:

a. The authority citation for Part 723 continues to read as follows:

Authority: 15 U.S.C. 2604.

b. In § 723.50 by revising paragraph (n) to read as follows:

§ 723.50 Chemical substances manufactured in quantities of 1,000 kilograms or less per year.

* * * * *

(n) *Submission of information.* Information submitted to EPA under this section must be sent in writing to: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

* * * * *

c. In § 723.175 by revising paragraph (i)(3) to read as follows:

§ 723.175 Chemical substances used in or for the manufacture or processing of instant photographic and peel-apart film articles.

* * * * *

(i) * * *

(3) *Address.* The exemption notice must be addressed to: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

* * * * *

d. In § 723.250 by revising the second sentence of paragraph (m)(1), and paragraph (s) to read as follows:

§ 723.250 Polymers.

* * * * *

(m) * * *

(1) * * * A statement of withdrawal must be made in writing to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. * * *

* * * * *

(s) *Submission of information.* Information submitted to EPA under this section must be sent in writing to: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

* * * * *

PART 750—[AMENDED]

10. In Part 750:

a. The authority citation for Part 750 continues to read as follows:

Authority: 15 U.S.C. 2605.

b. In § 750.11 by revising paragraph (c) to read as follows:

§ 750.11 Filing of petitions for exemption.

* * * * *

(c) *Where to file.* All petitions shall be submitted to the following location: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

* * * * *

c. In § 750.31 by revising paragraph (c) to read as follows:

§ 750.31 Filing of petition for exemption.

* * * * *

(c) *Where to file.* All petitions must be submitted to the following location: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

* * * * *

PART 761—[AMENDED]

11. In Part 761:

a. The authority citation for Part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, and 2611; Subpart G is also issued under 15 U.S.C. 2614 and 2616.

b. In § 761.19 by revising the last sentence of the introductory text of paragraph (b), to read as follows:

§ 761.19 References.

* * * * *

(b) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

c. In § 761.20 by revising the second sentence of the introductory text of paragraph (c)(3) and the first sentence of paragraph (c)(3)(vii) to read as follows:

§ 761.20 Prohibitions.

* * * * *

(c) * * *

(3) * * * Export notices must be submitted to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. * * *

* * * * *

(vii) No less than 30 days after the end of each calendar quarter (March 31, June 30, September 30, and December 31) during which PCBs were exported for disposal, each person exporting the PCBs must submit a report to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. * * *

* * * * *

§ 761.20 [Amended]

d. In § 761.20 by removing the phrase "Document Control Officer (TS–793)", from the third sentence in paragraphs (c)(3)(vii) and from paragraph (c)(3)(viii), and by substituting in place thereof the phrase "TSCA Document Processing Center (TS–790)".

§ 761.30 [Amended]

e. In § 761.30, paragraph (a)(2)(v), by removing the words "Assistant Administrator" and inserting in their place the words "Director, Exposure Evaluation Division".

f. In § 761.30, paragraph (h)(2)(iv) is amended by removing the parentheses.

§ 761.40 [Amended]

g. In § 761.40 introductory text, by revising the reference in paragraph (a) to "§ 761.44(a)", to read "§ 761.45(a)".

§ 761.60 [Amended]

h. In § 761.60, paragraphs (a)(1), and the introductory texts of (b)(5)(i) and (c)(1), by revising the "50 ppm" to read "500 ppm".

i. In § 761.60(a)(2)(iii)(C) by revising the reference to "paragraph (b)(2)(iii)(B)(*3*)" to read "paragraph (a)(2)(iii)(b)(*3*)."

j. In § 761.60(a)(2)(iv) by revising the reference to "(b)(2)(iii)" to read "paragraph (a)(2)(iii)."

k. In § 761.60(a)(5)(ii), by revising the reference to "§ 761.65" to read "§ 761.75."

l. In § 761.60, paragraphs (e) and (i)(1), by removing the words "Assistant Administrator for Pesticides and Toxic Substances", and inserting in their place the words "Director, Exposure Evaluation Division".

§ 761.70 [Amended]

m. In § 761.70, the formula in paragraph (a)(2) is amended by revising "$Cco_2/Cco_2+Cco\times100$" to read "$[Cco_2/(Cco_2+Cco)]100$."

§§ 761.65, 761.70, 761.75 [Amended]

n. In § 761.65(c)(9) and § 761.70(c), the introductory text of § 761.75(b)(6)(iii), and paragraph (b)(8)(iv) of § 761.75, by revising all references to "§ 761.80" to read "§ 761.180".

§ 761.70 [Amended]

o. In § 761.70, the introductory text of paragraph (a), paragraph (a) (7), (8) introductory text, and (9), the introductory text of paragraph (b), the introductory text of paragraph (d), paragraph (d)(2) (i), (ii) introductory text, (iii), (4) (i), (ii), (5) and (7), by removing the words "Assistant Administrator for Pesticides and Toxic Substances" and inserting in their place the words "Director, Exposure Evaluation Division".

p. In § 761.70, the introductory text of paragraph (d)(1), by removing the words "Assistant Administrator", and adding in place thereof the words "Director, Exposure Evaluation Division".

§ 761.80 [Amended]

q. In § 761.80 by removing and reserving paragraphs (a) through (e), and (h) through (l) and by removing paragraphs (p) through (r).

§ 761.180 [Amended]

r. In § 761.180(f)(3) by revising the reference to "§ 761.41(c)" to read "§ 761.75(c)."

s. In § 761.185 by revising paragraph (f) to read as follows:

§ 761.185 Certification program and retention of records by importers and persons generating PCBs in excluded manufacturing processes.

* * * * *

(f) This report must be submitted to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: PCB Notification. This report must be submitted by October 1, 1984 or within 90 days of starting up processes or commencing importation of PCBs.

* * * * *

t. In § 761.187 by revising paragraph (d) to read as follows:

§ 761.187 Reporting by importers and by persons generating PCBs in excluded manufacturing processes.

* * * * *

(d) These reports must be submitted to the TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: PCB Notification.

PART 763—[AMENDED]

12. In Part 763:

a. The authority citation for Part 763 continues to read as follows:

Authority: 15 U.S.C. 2605 and 2607(c); Subpart E also issued under 15 U.S.C. 2641, 2643, and 2647.

§ 763.90 [Amended]

b. Section 763.90 is amended as follows:

i. The third sentence of paragraph (i)(5) is amended by revising the words "The method is available at the Office of the Federal Register Information Center, 11th and L St., NW., Room 8401 * * *" to read "The method is available for public inspection at the Office of the Federal Register, 11th and L St., NW., Room 8401 * * *".

ii. The third sentence in paragraphs (i) (6) and (7) is amended by revising the words "The method is available at the Office of the Federal Register, 11th and L St., NW., Room 8301 * * *" to read "The method is available for public inspection at the Office of the Federal Register, 11th and L St., NW., Room 8401 * * *".

c. Section 763.119 is revised to read as follows:

§ 763.119 References.

(a) *General.* The following reference contains detailed information on sampling and analysis of friable materials and provides a background on which this Part is based. Microfiche copies may be obtained from the TSCA Public Docket Office (TS-793), Rm. NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

(1) USEPA. 1979. "Asbestos-Containing Materials in School Buildings: A Guidance Document" Part 1 (EPA No. C00090), OPTS Docket 61004.

(2) [Reserved]

(b) [Reserved]

PART 790—[AMENDED]

13. In Part 790:

a. The authority citation for Part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

b. In § 790.5 by revising paragraph (b) to read as set forth below and by removing paragraph (c).

§ 790.5 Submission of information.

* * * * *

(b) Submissions containing both confidential business information or non-confidential business information must be addressed to: TSCA Document Processing Center (TS-790), Rm L-100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Attention: TSCA Section 4.

* * * * *

PART 796—[AMENDED]

14. In Part 796:

a. The authority citation for Part 796 continues to read as follows:

Authority: 15 U.S.C. 2603.

b. In § 796.1550 by revising the last sentence in paragraph (b)(1)(iii) to read as follows:

§ 796.1550 Partition coefficient (n-Octanol/water).

* * * * *

(b) * * *

(1) * * *

(iii) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS-793), Rm NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

d. In § 796.1570 by revising the last sentence in paragraph (b)(1)(ii) to read as follows:

§ 796.1570 Partition coefficient (n-Octanol/water)— Estimation by liquid chromatography.

* * * *

(b) * * *

(1) * * *

(ii) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS-793), Rm. NE.-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia PA 19103.

* * * * *

e. In § 796.1720 by revising the last sentence in paragraph (b)(1)(ii) and the last sentence in paragraph (b)(2)(i) to read as follows:

§ 796.1720 Octanol/water partition coefficient, generator column method.

* * * * *

(b) * * *

(1) * * *

(ii) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS-793), Rm. NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

(2) * * *

(i) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS-793), Rm. NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pa 19103.

* * * * *

f. In § 796.1840 by revising the last sentence in paragraph (b)(1)(ii) to read as follows:

§ 796.1840 Water solubility.

* * * * *

(b) * * *

(1) * * *

(ii) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS-793), Rm. NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pa 19103.

* * * * *

g. In § 796.1860 by revising the last sentence in paragraph (b) (1) (ii) to read as follows:

§ 796.1860 Water solubility (generator column method).

* * * * *

(b) * * *

(1) * * *

(ii) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS-793), Rm. NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

h. In § 796.1950 by revising the fifth sentence of paragraph (b)(2)(i) to read as follows:

§ 796.1950 Vapor pressure.

* * * * *

(b) * * *

(2) * * *

(i) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS-793), Rm. NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * *

* * * * *

§ 796.3260 [Amended]

i. In § 796.3260, paragraph (b)(2)(i)(B)(*2*) introductory text by revising the word "megohms.cm" to read "megaohms.cm".

j. In § 796.3500 by revising the last sentence in paragraph (b)(1)(ii) to read as follows:

§ 796.3500 Hydrolysis as a function of pH at 25°C.

* * * * *

(b) * * *

(1) * * *

(ii) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

k. In § 796.3700 by revising the last sentence in paragraph (b)(2)(i)(B) to read as follows:

§ 796.3700 Photolysis in aqueous solution in sunlight.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

§ 796.3780 [Amended]

l. In § 796.3780 as follows:

i. In paragraph (b)(2)(i)(B)(*1*) by revising the reference "paragraph (b)(i)(vi)" to read "paragraph (b)(1)(vi)".

ii. In paragraph (b)(1)(vi)(A) by revising the last sentence to read as follows:

§ 796.3780 Laboratory determination of the direct photolysis reaction quantum yield in aqueous solution and sunlight photolysis.

* * * * *

(b) * * *

(1) * * *

(iv) * * *

(A) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

PART 797—[AMENDED]

15. In Part 797:

a. The authority citation for Part 797 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 797.1060 [Amended]

b. In § 797.1060 by redesignating paragraphs (c)(1) (A) and (B) as paragraphs (c)(1) (i) and (ii), respectively.

§ 797.1075 [Amended]

c. In § 797.1075 by redesignating paragraphs (c)(1) (A) and (B) as paragraphs (c)(1) (i) and (ii), respectively.

§ 797.2050 [Amended]

d. In § 797.2050, paragraph (c)(3), by revising the reference "(d)(4)(iii)" to read "(c)(4)(iii)".

PART 799—[AMENDED]

17. In Part 799:

a. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. Section 799.5 is revised to read as follows:

§ 799.5 Submission of information.

Information (letters, study plans, reports) submitted to EPA under this Part must bear the Code of Federal Regulations (CFR)a section number of the subject chemical test rule (e.g. § 799.4400 for 1,1,1-trichloroethane) and must be addressed to: TSCA Document Processing Center (TS–790), Rm. L–100, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

c. In § 799.500 by revising the last sentence in paragraph (c)(4)(i) and paragraph (d)(2)(i)(C) to read as follows:

§ 799.500 Anthraquinone.

* * * * *

(c) * * *

(4) * * *

(i) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

* * * * *

(d) * * *

(2) * * *

(C) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or from the Society for Industrial Microbiology, P.O. Box 12534, Arlington, VA 22209–8534.

* * * * *

d. In § 799.4400 by revising the last sentence in paragraph (d)(1)(ii) to read as follows:

§ 799.4400 1,1,1-Trichloroethane.

* * * * *

(d) * * *

(1) * * *

(ii) * * * Copies of the incorporated material may be obtained from the TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

[FR Doc. 88–8040 Filed 4–14–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 63

[CC Docket No. 86–494; FCC 88–71]

Common Carrier Services; in the Matter of Regulatory Policies and International Telecommunications

AGENCY: Federal Communications Commission.

ACTION: Report & Order (R&O) Final rule.

SUMMARY: The Commission has established annual procurement requirements for interexchange carriers with more than $100 million in common carrier operations revenue and Tier I local exchange carriers, their holding companies and affiliates, for core equipment purchases during the preceding year. The Commission has also established quarterly reporting requirements of traffic and revenue from foreign-owned carriers offering interstate common carrier services within the United States. Additionally, carriers commencing U.S. domestic long distance service after July 1, 1988 must notify the Commission in writing within 30 days after they begin providing such services. (*See also* Supplemental Notice of Inquiry adopted in conjunction with the R&O and published elsewhere in the issue of the **Federal Register**.)

DATES: Effective June 1, 1988. Annual procurement reports for the preceding year must be filed for 1987 by July 1, 1988, and for subsequent calendar years by May 1 of the following year. Initial traffic and revenue quarterly reports for the calendar year 1987 and for the first quarter of 1988 must be filed by July 1, 1988. Reports for subsequent quarters must be filed on or before the 90th day after the completion of the calendar quarter.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William J. Kirsch, (202) 632–4047 or Anna Lim (202) 632–9342, Policy & Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report & Order, CC Docket 86–494, adopted February 25, 1988, and released March 25, 1988.

The full text of this Commission's Report & Order is available for inspection and copying during normal business hours in the FCC Dockets Branch, 1919 M Street, NW., Room 230, Washington, DC. The complete text of the R&O may also be purchased from the Commission's copy contractors, International Transcription Service, 2100 M Street, Suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Report and Order

On December 23, 1986, the Commission adopted a Notice of Inquiry and Proposed Rulemaking (Notice) in CC Docket 86–494 to determine whether the public interest requires that the Commission consider the telecommunications policies of foreign governments in the formulation of U.S. regulatory policies. The rulemaking section of the *Notice* focused on whether the Commission has sufficient information at present to consider the extent to which telecommunications entities from countries with restrictive practices have benefited from the liberalized U.S. market.

Forty-nine parties filed comments and twenty filed replies in response to the *Notice*. On February 25, 1988, the Commission adopted a Report & Order (Order) concluding that it must continue to monitor developments in domestic and international communications and to work with the executive branch and the Congress to promote a more competitive international telecommunications environment.

The *Order* establishes reporting requirements for core equipment purchases for interexchange carriers with more than $100 million in common carrier operations and for Tier I local exchange carriers, their holding companies and affiliates. The *Order* concludes that these companies must file annual procurement reports that provide information on their purchases of core equipment from both domestic and foreign-owned firms over the preceding calendar year.

The *Order* also establishes reporting requirements for foreign-owned carriers providing common carrier services within the United States. A carrier is classified as foreign-owned if a foreign telecommunications entity directly or indirectly owns 15 percent or more of its stock, or an employee, agent, or representative of a foreign telecommunications entity sits on its board of directors. All foreign-owned carriers will be required to file traffic and revenue reports on a quarterly basis. Carriers commencing U.S. domestic interexchange services must notify the Commission in writing within 30 days after they begin providing such services.

The *Order* concludes that the Commission should decline to establish reporting requirements for foreign-owned enhanced service providers operating within the United States or to and from the U.S. and foreign points. It also concludes that the Commission should not establish reporting requirements for registrants of customer premises equipment under Part 68 of the FCC Rules.

Ordering Clause

Accordingly, it is ordered that Part 43 and Part 63 of the Commission's Rules be amended by adding new rules, effective June 1, 1988, that provide for the following:

(1) That all foreign-owned carriers offering interstate common carrier services within the United States must file revenue and traffic reports with the Common Carrier Bureau on a quarterly basis beginning July 1, 1988, with subsequent reports due on, or before, the 90th day after completion of the calendar quarter;

(2) That all foreign-owned carriers that initiate domestic common carrier services within the United States after July 1, 1988, must notify this Commission within thirty days of their commencement of such service; and

(3) That all U.S. Interexchange Carriers with more than $100 million in common carrier operations revenue and all Tier I Local Exchange Carriers, their holding companies and affiliates must file with the Common Carrier Bureau annual reports on the preceding year's core equipment procurement beginning July 1, 1988, and for subsequent calendar years by May 1 of the following year.

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

List of Subjects in 47 CFR Parts 43 and 63

Common carrier.

PART 43—[AMENDED]

47 CFR Part 43 shall be amended by adding the following:

1. The authority citation for Part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.81 is added to read as follows:

§ 43.81 Reports of foreign-owned carriers.

(a) All foreign-owned carriers are required to file with the Commission quarterly revenue and traffic reports on all common carrier services they offer within the United States;

(b) A carrier is classified as foreign-owned if a foreign telecommunications entity directly or indirectly owns 15 percent or more of its stock; or an employee, agent, or representative of a foreign telecommunications entity sits on its board of directors;

(c) Foreign telecommunications entities include, but are not necessarily limited to, telecommunications and telecommunications-related equipment manufacturers, equipment suppliers, and service providers;

(d) Initial reports for the calendar year 1987 and for the first quarter of 1988 must be filed by foreign-owned carriers by July 1, 1988;

(e) Reports for subsequent quarters must be filed by foreign-owned carriers on, or before, the 90th day after the completion of the calendar quarter; and

(f) Beginning July 1, 1988, foreign-owned carriers shall give written notice to the Commission within 30 days after they begin providing domestic interstate common carrier services with in the United States."

PART 63—[AMENDED]

47 CFR Part 63 shall be amended by adding the following:

3. The authority citation for Part 63 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 214, 48 Stat. 1075, as amended; 47 U.S.C. 214; secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

4. Section 63.801 is added to read as follows:

§ 63.801 Annual procurement reports.

(a) Tier I local exchange carriers, their holding companies and affiliates, and interexchange carriers with common carrier operations revenues exceeding $100 million annually must file annual procurement reports concerning their purchases of all pieces of network switching and transmission equipment during the preceding calendar year;

(b) The report should be captioned—"Section 63.801 Report"—and list by name of manufacturer or supplier, aggregate annual dollar purchases of this equipment in categories determined by the Chief, Common Carrier Bureau; and

(c) Annual procurement reports for the preceding year must be filed for 1987 by July 1, 1988, and for subsequent calendar years by May 1 of the following year.

[FR Doc. 88-8174 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-384; RM-5223; RM-5476]

Radio Broadcasting Services; Lompoc and Orcutt, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document deletes FM Channel 265A from and allots FM Channel 262B1 to Lompoc, California and modifies the license of Station KRQK-FM, Lompoc, to specify operation on Channel 262B1 in response to a proposal filed by Crystal Broadcasting, Inc. This document also deletes FM Channel 224A from and allots FM Channel 281Bd1 to Lompoc and modifies the license of Station KBOX (FM), Lompoc, to specify operation on Channel 281B1 in response to a proposal filed jointly by Golden Coast Broadcasting, Inc. and Broadcast Management Consultants. This document further allots FM Channel 294B1 to Lompoc. Finally, this document allots FM Channel 239B1 to Orcutt, California in response to a counterproposal filed by Radio Representatives, Inc. With this action, this proceeding is terminated.

DATES: Effective May 23, 1988; The window periods for filing applications for Channel 294B1, Lompoc, and Channel 239B1, Orcutt, California will open on May 24, 1988, and close on June 23, 1988.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-384, adopted March 4, 1988, and released April 8, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under California by removing Channel 265A and Channel 224A from and adding Channel 262B1, Channel 281B1, and Channel 294B1 at Lompoc and by adding Channel 239B1 at Orcutt.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8316 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-410; RM-5428, RM-5469, RM-5688 and RM-5792]

Radio Broadcasting Services; Columbia, Eldon, Centralia, Cabool and Mountain Grove; MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 230A to Columbia, Missouri, in response to a petition filed by George Thomas. A counterproposal filed by The Clair Group to substitute Channel 230A for Channel 221A at Centralia, Missouri, was denied. A second counterproposal filed by Southwest Communications, Inc., to substitute of Channel 224C2 for Channel 224A at Eldon, Missouri and to modify its license for Station KLDN (FM), Eldon, will be treated in a subsequent document in this proceeding.

The allotment of Channel 230A to Columbia will provide a fifth FM channel. The Centralia proposal was denied since the Commission did not believe there was a valid technical problem with the present channel.

DATES: Effective April 28, 1988. The window period for filing applications will open on April 29, 1988, and close on May 31, 1988.

FOR FURTHER INFORMATION CONTACT: Arthur Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-410, adopted February 26, 1988, and released March 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri is amended by adding Channel 230A to Columbia.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8317 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-11; Notice 3]

Federal Motor Vehicle Safety Standards; Motorcycle Helmets

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; correction.

SUMMARY: On April 6, 1988, the agency published a final rule amending its Federal Motor Vehicle Safety Standard on motorcycle helmets. The document contained an incomplete Table 2, Exterior Dimensions for the Medium

Headform. Today's document publishes correctly Table 2 in its entirety.

FOR FURTHER INFORMATION CONTACT: Dr. William J.J. Liu, Office of Vehicle Safety Standards, NRM–12, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (202) 366–4923.

SUPPLEMENTARY INFORMATION: The incorrect Table 2 in FR Doc. 88–7395 appears on page 11293 of the April 6, 1988 issue of the **Federal Register.** FR Doc. 88–7395 is corrected as follows.

Table 2 of the Appendix to § 571.218, entitled "Medium Headform—Exterior Dimensions", is correctly added as set forth after the signature line of this document.

Issued: April 8, 1988.

Diane K. Steed,

Administrator.

BILLING CODE 4910–59–M

Table 2

Medium Headform - Exterior Dimensions

	Bottom Opening Z= -3.02			Level-5 Z= -2.900		
Θ	R	X	Y	R	X	Y
0	4.292	4.292	0	4.293	4.293	0
10	4.266	4.201	0.741	4.270	4.205	0.742
20	4.159	3.908	1.423	4.172	3.920	1.427
30	3.967	3.436	1.984	3.961	3.430	1.981
40	3.660	2.804	2.353	3.670	2.811	2.359
50	3.332	2.142	2.553	3.352	2.155	2.568
60	3.039	1.520	2.632	3.067	1.534	2.656
70	2.839	0.971	2.668	2.869	0.981	2.696
80	2.720	0.472	2.679	2.772	0.481	2.730
90	2.675	0	2.675	2.709	0	2.709
100	2.703	-0.469	2.662	2.724	-0.473	2.683
110	2.764	-0.945	2.597	2.794	-0.956	2.626
120	2.888	-1.444	2.501	2.917	-1.459	2.526
130	2.985	-1.919	2.287	3.040	-1.954	2.329
140	3.100	-2.375	1.993	3.175	-2.432	2.041
150	3.175	-2.750	1.588	3.232	-2.799	1.616
160	3.186	-2.994	1.090	3.246	-3.050	1.110
170	3.177	-3.129	0.552	3.237	-3.188	0.562
180	3.187	-3.187	0	3.246	-3.246	0

	Basic Plane Z= -2.360			Level -4 Z= -2.000		
Θ	R	X	Y	R	X	Y
0	4.272	4.272	0	4.247	4.247	0
10	4.248	4.184	0.738	4.223	4.159	0.733
20	4.147	3.897	1.418	4.120	3.872	1.409
30	3.961	3.430	1.981	3.940	3.412	1.970
40	3.687	2.824	2.370	3.683	2.821	2.367
50	3.384	2.175	2.592	3.392	2.180	2.598
60	3.111	1.556	2.694	3.132	1.566	2.712
70	2.927	1.001	2.751	2.960	1.012	2.782
80	2.815	0.489	2.772	2.860	0.497	2.817
90	2.779	0	2.779	2.838	0	2.838
100	2.802	-0.487	2.759	2.861	-0.497	2.818
110	2.887	-0.987	2.713	2.958	1.012	2.780
120	3.019	-1.510	2.615	3.098	1.549	2.683
130	3.180	2.044	2.436	3.260	2.096	2.497
140	3.306	-2.533	2.125	3.405	-2.608	2.189
150	3.398	2.943	1.699	3.516	3.045	1.758
160	3.458	-3.250	1.183	3.585	3.369	1.226
170	3.475	-3.422	0.603	3.612	-3.557	0.627
180	3.472	-3.472	0	3.609	-3.609	0

Table 2

Medium Headform – Exterior Dimensions (Continued)

	Level–3 Z= –1.500			Level–2 Z= –1.000		
Θ	R	X	Y	R	X	Y
0	4.208	4.208	0	4.148	4.148	0
10	4.179	4.116	0.726	4.112	4.050	0.714
20	4.075	3.829	1.394	4.013	3.771	1.373
30	3.902	3.379	1.951	3.844	3.329	1.922
40	3.654	2.799	2.349	3.609	2.765	2.320
50	3.377	2.171	2.587	3.352	2.155	2.568
60	3.094	1.547	2.680	3.137	1.569	2.717
70	2.982	1.020	2.802	2.989	1.022	2.809
80	2.891	0.502	2.847	2.902	0.504	2.858
90	2.876	0	2.876	2.884	0	2.884
100	2.918	–0.507	2.874	2.943	–0.511	2.898
110	3.021	–1.033	2.839	3.052	–1.044	2.868
120	3.170	–1.585	2.745	3.225	–1.613	2.793
130	3.337	–2.145	2.556	3.397	–2.184	2.602
140	3.483	–2.668	2.239	3.536	–2.709	2.273
150	3.604	–3.121	1.802	3.657	–3.167	1.829
160	3.682	–3.460	1.259	3.751	–3.525	1.283
170	3.725	–3.668	0.647	3.807	–3.749	0.661
180	3.741	–3.741	0	3.822	–3.822	0

	Level–1 Z= –0.500			Reference Plane Z=0.0		
Θ	R	X	Y	R	X	Y
0	4.067	4.067	0	3.971	3.971	0
10	4.033	3.972	0.700	3.935	3.875	0.683
20	3.944	3.706	1.349	3.853	3.621	1.318
30	3.777	3.271	1.889	3.701	3.205	1.851
40	3.552	2.721	2.283	3.491	2.674	2.244
50	3.323	2.136	2.546	3.279	2.108	2.512
60	3.126	1.563	2.707	3.101	1.551	2.686
70	2.987	1.022	2.807	2.979	1.019	2.799
80	2.912	0.506	2.868	2.910	0.505	2.866
90	2.893	0	2.893	2.890	0	2.890
100	2.895	–0.503	2.851	2.945	–0.511	2.900
110	3.064	–1.048	2.879	3.062	–1.047	2.877
120	3.231	–1.616	2.798	3.228	–1.614	2.796
130	3.411	–2.193	2.613	3.413	–2.194	2.615
140	3.560	–2.727	2.288	3.563	–2.729	2.290
150	3.682	–3.189	1.841	3.681	–3.188	1.841
160	3.783	–3.555	1.294	3.773	–3.546	1.290
170	3.885	–3.826	0.675	3.832	–3.774	0.665
180	3.857	–3.857	0	3.844	–3.844	0

Table 2

Medium Headform – Exterior Dimensions (Continued)

	Level+1 Z=0.500			Level +2 Z=1.000		
Θ	R	X	Y	R	X	Y
0	3.830	3.830	0	3.665	3.665	0
10	3.801	3.743	0.660	3.613	3.558	0.627
20	3.725	3.500	1.274	3.554	3.340	1.216
30	3.587	3.106	1.794	3.436	2.976	1.718
40	3.399	2.604	2.185	3.271	2.506	2.103
50	3.205	2.060	2.455	3.102	1.994	2.376
60	3.044	1.522	2.636	2.959	1.480	2.563
70	2.927	1.001	2.751	2.854	0.976	2.682
80	2.861	0.497	2.818	2.792	0.485	2.750
90	2.855	0	2.855	2.783	0	2.783
100	2.897	−0.503	2.853	2.832	−0.492	2.789
110	3.007	−1.029	2.826	2.938	−1.005	2.761
120	3.176	−1.588	2.751	3.102	−1.551	2.686
130	3.372	−2.168	2.583	3.294	−2.117	2.523
140	3.520	−2.697	2.263	3.450	−2.643	2.218
150	3.643	−3.155	1.822	3.564	−3.087	1.782
160	3.728	−3.503	1.275	3.637	−3.418	1.244
170	3.777	−3.720	0.656	3.675	−3.619	0.638
180	3.782	−3.782	0	3.670	−3.670	0

	Level +3 Z=1.450			Level +4 Z=1.860		
Θ	R	X	Y	R	X	Y
0	3.419	3.419	0	3.061	3.061	0
10	3.382	3.331	0.587	3.035	2.989	0.527
20	3.299	3.100	1.128	2.966	2.787	1.014
30	3.197	2.769	1.599	2.872	2.487	1.436
40	3.052	2.338	1.962	2.754	2.110	1.770
50	2.911	1.871	2.230	2.642	1.698	2.024
60	2.786	1.393	2.413	2.522	1.261	2.184
70	2.700	0.924	2.537	2.477	0.847	2.328
80	2.647	0.460	2.607	2.442	0.424	2.405
90	2.636	0	2.636	2.442	0	2.442
100	2.691	−0.467	2.650	2.492	−0.433	2.454
110	2.796	−0.956	2.627	2.599	−0.889	2.442
120	2.961	−1.481	2.564	2.758	−1.379	2.389
130	3.147	−2.023	2.411	2.936	−1.887	2.249
140	3.301	−2.529	2.122	3.081	−2.360	1.980
150	3.408	−2.951	1.704	3.176	−2.751	1.588
160	3.479	−3.269	1.190	3.230	−3.035	1.105
170	3.514	−3.461	0.610	3.270	−3.220	0.568
180	3.502	−3.502	0	3.271	−3.271	0

Table 2

Medium Headform — Exterior Dimensions (Continued)

Θ	Level +5 Z=2.250			Level +6 Z=2.560		
	R	X	Y	R	X	Y
0	2.526	2.526	0	1.798	1.798	0
10	2.521	2.483	0.483	1.798	1.771	0.312
20	2.464	2.315	0.843	1.757	1.651	0.601
30	2.387	2.067	1.194	1.719	1.489	0.860
40	2.305	1.766	1.482	1.678	1.285	1.079
50	2.232	1.435	1.710	1.652	1.062	1.266
60	2.174	1.087	1.883	1.641	0.821	1.421
70	2.144	0.733	2.015	1.645	0.563	1.546
80	2.132	0.370	2.100	1.673	0.291	1.648
90	2.147	0	2.147	1.712	0	1.712
100	2.213	-0.384	2.179	1.809	-0.314	1.782
110	2.316	-0.792	2.176	1.925	-0.658	1.809
120	2.463	-1.232	2.133	2.066	-1.033	1.789
130	2.624	-1.687	2.010	2.213	-1.423	1.695
140	2.763	-2.117	1.776	2.358	-1.806	1.516
150	2.863	-2.479	1.432	2.469	-2.138	1.235
160	2.919	-2.743	0.988	2.536	-2.383	0.867
170	2.954	-2.909	0.513	2.561	-2.522	0.445
180	2.958	-2.958	0	2.556	-2.556	0

Θ	Level +7 Z=2.750		
	R	X	Y
0	1.081	1.081	0
10	1.088	1.072	0.189
20	1.055	0.991	0.361
30	1.039	0.900	0.520
40	1.039	0.796	0.668
50	1.052	0.676	0.806
60	1.068	0.534	0.925
70	1.106	0.378	1.039
80	1.171	0.203	1.153
90	1.242	0	1.242
100	1.422	-0.247	1.400
110	1.489	-0.509	1.399
120	1.683	-0.842	1.458
130	1.801	-1.158	1.380
140	1.954	-1.497	1.256
150	2.083	-1.804	1.042
160	2.138	-2.009	0.731
170	2.175	-2.142	0.378
180	2.175	-2.175	0

Notes:

1. Apex is located at (-0.75, 0, 3.02) for (X,Y,Z) or (0.75, 180, 3.02) for (R, Θ, Z).
2. Center of ear opening is located at (0.40, 2.78, -2.36) for (X,Y,Z) or (2.80, 81.8, -2.36) for (R,Θ,Z).
3. Scale all dimensions by 0.8941 for small headform.
4. Scale all dimensions by 1.069 for large headform.
5. Headform is symmetrical about the mid-sagittal plane.
6. Units:
   R,X,Y,Z — inches.
   Θ — degrees.
7. To obtain metric equivalents in centimeters, multiply each figure by 2.54.

[FR Doc. 88-8248 Filed 4-14-88; 8:45 am]
BILLING CODE 4910-58-C

Proposed Rules

Federal Register
Vol. 53, No. 73
Friday, April 15, 1988

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.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket Nos. C-626 and C-2075]

The Reader's Digest Association, Inc.

AGENCY: Federal Trade Commission.

ACTION: Notice of period for public comment on petition to reopen proceedings and modify consent orders.

SUMMARY: The Reader's Digest Association, Inc., the respondent in the orders in Docket Nos. C-626 and C-2075, has petitioned the Federal Trade Commission to modify in certain respects the 1963 and 1971 consent orders against The Reader's Digest Association, Inc., requiring disclosures of the terms and conditions of offers of free merchandise and of all other offers. This document announces the public comment period on the petition.

DATE: The deadline for filing comments in this matter is May 10, 1988.

ADDRESS: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW, Washington, DC 20580. Requests for copies of the request should be sent to Public Reference Branch, Room 130.

FOR FURTHER INFORMATION CONTACT: Terrence J. Boyle, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-3016.

SUPPLEMENTARY INFORMATION: The order against The Reader's Digest Association, Inc., in Docket No. C-626 was published at 29 FR 399 on January 16, 1964. The order in Docket No. C-2075 was published at 36 FR 22824 on December 1, 1971. The petitioner, The Reader's Digest Association, Inc., is a magazine and book publisher. The order in Docket C-626 prohibits The Reader's Digest Association, Inc., from employing words like "free" for merchandise offered to consumers unless all the conditions for receipt and retention of such merchandise are clearly and conspicuously set forth at the outset so as to leave no reasonable probability that the terms might be misunderstood. The order in Docket C-2075 prohibits The Reader's Digest Association, Inc., from offering any product for sale when all the terms and conditions of the offer are not explained fully and clearly and set forth conspicuously on the order form or in the case of offers in catalogues, either on the order form or elsewhere in the catalogue, with a clear and conspicuous disclosure on the order form of the location in the catalogue of the disclosures. The petition to modify was placed on the public record on March 30, 1988.

List of Subjects in 16 CFR Part 13

Magazines and books.

Emily H. Rock,

Secretary.

[FR Doc. 88-8305 Filed 4-14-88; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-26-88]

Incomes Taxes; Nonaccrual-Experience Method of Accounting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary amendments to the income tax regulations relating to the nonaccrual-experience method of accounting. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 14, 1988.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-26-88), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Katherine Lee Wambsgans of the Legislation and Regulations Divisions, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (202-566-3288, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (designated by a "T" following the section citation) in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 1 of Title 26 of the Code of Federal Regulations. These amendments clarify the computation of the bad debt ratio for purposes of the nonaccrual-experience method under section 448(d)(5) of the Internal Revenue Code of 1986 as added by section 801 of the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2085). For the text of the temporary regulations, see FR Doc. 88-8338 (T.D. 8194) published in the Rules and Regulations portion of this issue of the **Federal Register**. A general discussion of the temporary regulations is contained in the preamble to the regulations. The final regulations, which this document proposes to base on the temporary regulations, would amend Part 1 of Title 26 of the Code of Federal Regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, a regulatory flexibility analysis in not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any

person who submitted comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Ewan D. Purkiss of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Parts 1.441–1——1.483–2

Income taxes, Accounting, Deferred compensation plans.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 88–8339 Filed 4–14–88; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1 88–009]

Drawbridge Operation Regulations; Shark River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Proposed Temporary rule.

SUMMARY: At the request of New Jersey Department of Transportation with the concurrence of New Jersey Transit Railroad Operations, the Coast Guard is considering issuing temporary regulations governing the draws of Route 71 bridge, mile 0.8, the railroad bridge, mile 0.9, and the Route 35 bridge, mile 0.9, all at Avon by permitting the number of openings to be limited from 7 a.m. to 9 a.m. and from 3 p.m. to 7 p.m. Monday through Friday, and from 9 a.m. to 9 p.m. on Saturdays, Sundays and federal holidays. The opening of the bridges may be delayed not more than 10 minutes after the signal to open is given for the passing of a scheduled train or bunching of commercial vessels. This proposal is being made because periods of peak vehicular traffic have increased due to the Ocean Avenue bridge reconstruction and diversion of same to the Route 71 and Route 35 bridges. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before April 18, 1988.

ADDRESSES: Comments should be mailed to Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, NY 10004–5098. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 9 a.m. and 3:30 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, at (212) 668–7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this temporary rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Good cause exists for limiting the comment period to less than 30 days after publication in the Federal Register, because of the need to relieve the vehicular congestion in the area caused by the added traffic.

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

Drafting Information

The drafters of this notice are Jose M. Arca Jr., project officer, and Cdr. R. B. Ellard, project attorney.

Discussion of Temporary Regulation

Current regulations provide that the draws shall open on signal; except that from May 15 through September 30 from 4 p.m. to 7 p.m. Monday through Friday except federal holidays and from 9 a.m. to 9 p.m. Saturdays, Sundays and federal holidays, the draws need be opened only on the hour and half hour if a vessel is waiting to pass. The proposed temporary regulations are being made in an effort to relieve traffic congestion while Ocean Avenue bridge is being reconstructed. The temporary regulations are essentially the same opening schedule in effect during the summer months when vehicular traffic is heavy, except that provision is also being made for the morning rush hour period. Marine interests, officials of the towns of Avon and Belmar, Monmouth County, New Jersey Department of Transportation, New Jersey Transit Railroad Operations and the Coast Guard met on January 29, 1988 to develop the proposed schedule.

Economic Assessment and Certification

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

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. These temporary changes in the regulations will not prevent mariners from transiting the bridges when needed but only require advance planning. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Proposed Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.751 is amended by suspending for the period April 15 through October 31, 1988, paragraph (b) and adding new paragraph (d) effective for the period April 15 through October 31, 1988, to read as follows:

§ 117.751 Shark River.

* * * * *

(d) From April 15 through October 31, 1988, the draws shall open on signal; except that from 7 a.m. to 9 a.m. and from 3 p.m. to 7 p.m., Mondays through Friday, except federal holidays and from 9 a.m. to 9 p.m. on Saturdays, Sundays and federal holidays, the draws need be opened only on the hour and half hour for waiting vessels. The opening of the draws may be delayed not more than 10 minutes after the signal to open is given to facilitate passage of scheduled trains or bunching of commercial vessels.

Dated: March 30, 1988.

J.N. Faigle,

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

[FR Doc. 88–7757 Filed 4–12–88; 11:36 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6923]

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Modified Determinations of base (100-year) flood elevations previously published at 53 FR 4690 on February 17, 1988. This correction notice provides a more accurate representation of the revised Flood Insurance Rate Map for the Town of Ramapo, Rockland County, New York.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2754.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Modified Determinations of base (100-year) flood elevations for selected locations in the Town of Ramapo, Rockland County, New York, previously published at 53 FR 4690 on February 17, 1988, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The authority citation for Part 67 continues to read as follows:

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

On page 4690, in the February 17, 1988 issue of **Federal Register**, a new entry is added after the third entry under Ramapo (Town), Rockland County, and the entry for "Pascack Brook" is correctly revised to read as follows:

Source of flooding	Location	Depth in feet above ground. *Elevation in feet (NGVD)	
		Existing	Modified
*	* * * *		
North Branch Pascack Brook	At downstream corporate limits	*410	*406
	Approximately 20 feet downstream of Pascack Brook	*431	*429
	At downstream side of Eckerson Road	*446	*446
	Approximately 30 feet upstream of Rockland Parkway (1st upstream crossing)	None	*461
	Approximately 20 feet upstream of State Route 45	None	*489
	At the upstream corporate limits	None	*498
	At the upstream side of the Kearsing Parkway	None	*557
	Approximately 50 feet upstream of Viola Road	None	*587
Pascack Brook	Approximately 50 feet downstream of Abandoned Railroad	None	*465
	Approximately 150 feet upstream of Francis Place (2nd upstream crossing)	None	*477
	At the upstream side of the Ida Road Backyard Foot Bridge	None	*492
	Approximately 220 feet upstream of Ralph Boulevard	None	*529
*	* * * *		

Maps available for inspection at the Office of Town Clerk, Town Hall, Ramapo, New York.
Send comments to The Honorable Herbert Reisman, Supervisor of the Town of Ramapo, Rockland County, 237 Route 59, Suffern, New York 10901.

Issued: April 11, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-8289 Filed 4-14-88; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 67

[Docket No. FEMA-6926]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

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

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
GEORGIA	
Americus (city), Sumter County	
Muckalee Creek:	
At mouth	*321
About 6,500 feet upstream of Meadowbrook Drive	*333
Town Creek:	
At mouth	*330
Just downstream of Mayo Street	*354
Just upstream of Mayo Street	*361
About 1,700 feet upstream of Mayo Street	*361
Mill Creek:	
About 3,000 feet downstream of CXS railroad	*336
Just downstream of U.S. Route 280	*361
Mill Creek Tributary:	
About 750 feet downstream of CSX railroad	*338
Just downstream of Felder Street	*353
Just upstream of Felder Street	*361

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Office of the Community Development Director, City Hall, Americus, Georgia.	
Send comments to The Honorable Russell Thomas, Jr., Mayor, City of Americus, City Hall, P.O. Box M, Americus, Georgia 31709.	
Lakeland (city), Lanier County	
Big Creek:	
About 1,700 feet downstream of Main Avenue	*160
About 3,200 feet upstream of Brantley Street	*168
Mill Creek:	
At mouth	*164
Just downstream of North Lakeshore Drive	*167
Just upstream of North Lakeshore Drive	*175
About 4,000 feet upstream of Old Nashville Road	*177
Maps available for inspection at the City Hall, 122 South Valdosta Road, Lakeland, Georgia.	
Send comments to The Honorable James S. Shaw, Jr., Mayor, City of Lakeland, City Hall, 122 South Valdosta Road, Lakeland, Georgia 31635.	
Polk County (unincorporated areas)	
Mill Creek:	
About 1.0 mile downstream of Prospect Road	*722
Just downstream of Prospect Road	*729
Just upstream of Prospect Road	*735
Just downstream of Norfolk Southern Railway	*738
Pumpkin Pile Creek:	
At mouth	*783
Just downstream of Pine Bower Road	*823
McCurry Creek:	
At mouth	*796
Just downstream of confluence of Lime Branch	*808
Cedar Creek:	
About 1,300 feet downstream of Kings Bridge Road	*728
Just downstream of dam	*783
Just upstream of dam	*791
Just downstream of Huntington Road	*798
Skeeter Branch:	
At mouth	*768
Just downstream of CSX railroad	*786
South Prong Skeeter Branch:	
About 1,200 feet downstream of U.S. Route 278	*797
Just downstream of Frank Lott Drive	*820
About 500 feet upstream of Frank Lott Drive	*826
Fish Creek:	
At mouth	*730
Just downstream of Hendrix Road	*818
Thompson Creek:	
About 1.3 miles downstream of Sycamore Street	*752
Just downstream of County Route 221	*806
Elm Street Slough:	
About 1,100 feet downstream of Sherwood Drive	*765

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just downstream of Morgan Road	*793
Simpson Creek:	
At mouth	*764
About 4,000 feet above mouth	*771
Euharlee Creek:	
About 1.7 miles upstream of Taylorsville Road	*713
Just downstream of Government Farm Road	*765
Tributary A:	
About 1,050 feet downstream of Nathan Dean Bypass	*760
Just downstream of Braswell Road	*816
White River Cave Creek:	
At mouth	*741
Just downstream of Marquette Road	*763
Maps available for inspection at the Building Inspector's Office, Courthouse Annex, Room 203, Cedartown, Georgia.	
Send comments to The Honorable David Willingham, Chairman, Board of Commissioners, Polk County, P.O. Box 268, Cedartown, Georgia 30125.	
ILLINOIS	
Wenona (city), Marshall County	
Sandy Creek Tributary:	
Just upstream of Elm Street	*673
About 1,075 feet upstream of Third South Street	*687
Maps available for inspection at the Wenona State Bank, Wenona, Illinois.	
Send comments to The Honorable Frederick Campbell, Mayor, City of Wenona, City Hall, Wenona, Illinois 61377.	
INDIANA	
DeKalb County (unincorporated areas)	
Cedar Creek:	
About 1,450 feet downstream of the CSX railroad	*852
About 0.6 mile upstream of County Route 31	*897
St. Joseph River:	
Just upstream of County Route 59	*795
Just downstream of County Route 64	*798
Maps available for inspection at the Planning Commission Office, County Courthouse, Auburn, Indiana.	
Send comments to The Honorable Robert Wilder, President, County Board, DeKalb County, County Courthouse, Auburn, Indiana 46706.	
Marshall County	
Yellow River:	
Just upstream of 1,200 East Road	*732
Just downstream of East 4th Road	*800
Tippecanoe River:	
Just upstream of East 20th Road	*766
Just downstream of East 18th Road (upstream crossing)	*779
Cook Lake: entire shoreline	*770
Holem Lake: entire shoreline	*770
Koontz Lake: entire shoreline	*715
Kreighbaum Lake: entire shoreline	*770
Lake of the Woods: entire shoreline	*805

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Lake Latonka: entire shoreline	*763
Lawrence Lake: entire shoreline	*770
Myers Lake: entire shoreline	*770
Mill Pond: entire shoreline	*770
Maps available for inspection at the County Planning Office, County Building, Room 302, Plymouth, Indiana.	
Send comments to The Honorable Clark Dare, President, County Board of Commissioners, Marshall County, County Courthouse, Plymouth, Indiana 46563	
KENTUCKY	
Whitley County (unincorporated areas)	
Cumberland River:	
Just upstream of State Route 204	*907
About 7.65 miles upstream of U.S. Route 25W	*944
Brown's Creek:	
At mouth	*924
About 900 feet upstream of private road	*980
Clear Fork:	
At mouth	*932
At state boundary	*976
Meadow Creek:	
At mouth	*978
About 1.22 miles upstream of mouth	*999
Watts Creek:	
At mouth	*924
Just downstream of Gatliffi Dam	*924
Just upstream of Gatliffi Dam	*929
About 3,600 feet upstream of State Route 26	*985
Lynn Camp Creek:	
About 1.10 miles downstream of private road	*1,070
About 0.50 mile. upstream of Back Street	*1,089
Maps available for inspection at the County Courthouse, Williamsburg, Kentucky.	
Send comments to The Honorable Jerry Taylor, Judge Executive, Whitley County, P.O. Box 237, Williamsburg, Kentucky 40769.	
Williamsburg (city), Whitley County	
Cumberland River:	
About 0.55 mile downstream of CSX railroad	*926
About 0.93 mile upstream of State Route 25W	*932
Maps available for inspection at the City Hall, Williamsburg, Kentucky.	
Send comments to The Honorable Donnie R. Witt, Mayor, City of Williamsburg, P.O. Box 119, Williamsburg, Kentucky 40769.	
MAINE	
Rockland (city), Knox County	
Atlantic Ocean:	
Shoreline at Talbot Avenue (extended)	*11
Shoreline at Atlantic Point	*14
Shoreline at Samoset Road (extended)	*19
Maps available for inspection at the Code Enforcement Office, City Hall, Rockland Maine.	
Send comments to The Honorable Cathy Smith, Manager of the City of Rockland, Knox County, P.O. Box 546, Rockland, Maine 04841.	
Rockport (town), Knox County	
Atlantic Ocean:	
Shoreline of West Penobscot Bay at Beauchamp Point	*15
At Goose Rock	*19
Shoreline of West Penobscot Bay approximately 1,700 feet east of intersection of Russell Avenue and Calderwood Lane	23
Shoreline approximately 6,500 feet north of Babcocks Point	*37
Goose River:	
At Pascal Avenue	*10
Downstream side of Commercial Street	*45
Downstream side of Main Street (downstream crossing)	*55
Approximately 30 feet upstream of Park Street	*90
Maps available for inspection at the Planning Office, Rockport, Maine.	
Send comments to The Honorable Roger B. Jones, Chairman of the Board of Selectmen for the Town of Rockport, Knox County, 199 Beech Street, R.F.D., Rockport, Maine 04856.	
MICHIGAN	
Taymouth (township), Saginaw County	
Flint River:	
Just upstream of Sheridan Road	*600
About 1.8 miles upstream of East Burt Road	*619
Maps available for inspecton at the Taymouth Township Hall, 4343 East Birch Run Road, Birch Run, Michigan.	
Send comments to The Honorable Glenn Kerr, Supervisor, Township of Taymouth, Taymouth Township Hall, 4343 East Birch Run Road, Birch Run, Michigan 48415.	
MISSISSIPPI	
Bolivar County (unincorporated areas)	
Mississippi River:	
About 2.8 miles downstream of southern county boundary	*145
At northern county boundary	*174
Lead Bayou West Main Canal:	
At eastern county boundary	*133
Just downstream of U.S. Highway 61	*139
Porter Bayou:	
At eastern county boundary	*125
Just downstream of County Highway at City of Shaw western corporate limits	*128
Jones Bayou:	
Just upstream of Township Road	*134
About 1,300 feet upstream of Tower Road	*135
Pecan Bayou:	
About 0.8 mile downstream of Yale Street	*134
Just downstream of Yale Street	*135
Bear Pen Canal:	
About 2,700 feet downstream of Sunflower Road	*134
About 1,400 feet upstream of Rosemary Road	*137
Maps available for inspection at the County Courthouse, Cleveland, Mississippi.	
Send comments to The Honorable Kermit Stanton, President, County Board of Supervisors, Bolivar County, P.O. Drawer 698, Cleveland, Mississippi 38732.	
NEW HAMPSHIRE	
Littleton (town), Grafton County	
Ammonoosuc River:	
Downstream corporate limits	*689
Downstream side of Northbound Interstate 93 Bridge	*725
Upstream side of Bridge Street Bridge	*756
Downstream side of Cottage Street Bridge	*789
Downstream side of Chiswick Avenue Bridge	*822
Upstream corporate limits	*878
Baker Brook:	
Confluence with Ammonoosuc River	*834
Upstream corporate limits	*853
Dells Brook:	
Confluence with Ammonoosuc River	*712
Upstream side of Northbound Interstate Route 93 Bridge	*766
Upstream side of State Route 18 Bridge	*805
Approximately 0.6 mile upstream of State Route 18 Bridge	*831
Farr Brook:	
Confluence with Dells Brook	*787
Upstream side of State Route 18 Bridge	*835
Palmer Brook:	
Confluence with Ammonoosuc River	*826
At State Route 116 Bridge	*847
Upstream side of Pleasant Street Bridge	*900
Approximately 1,125 feet upstream of Gary Drive Bridge	*925
Maps available for inspection at the Town Clerk's Vault, Littleton, New Hampshire.	
Send comments to The Honorable Tom Landry, Town Manager of the Town of Littleton, Grafton County, Town Hall, 1 Union Street, Littleton, New Hampshire 03561.	
Tuftonboro (town), Carroll County	
Lake Winnipesaukee: Entire shoreline within community	*506
Maps available for inspection at the Town Clerk's Vault, Tuftonboro, New Hampshire.	
Send comments to The Honorable Charles Whitten, Chairman of the Town of Tuftonboro Board of Selectmen, Carroll County, Town Offices, Tuftonboro Center, Tuftonboro, New Hampshire 03816.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW MEXICO	
Rio Arriba County (unincorporated areas)	
Embudo Creek:	
Approximately 600 feet upstream of confluence with Rio Grande	*5,846
Approximately 1,200 feet downstream of confluence with Arroyo La Mina	*5,920
Approximately 1.1 miles downstream of State Route 75	*5,995
Approximately 1,750 feet upstream of State Route 75	*6,070
Approximately 1.5 miles upstream of State Route 75	*6,145
Approximately 2,400 feet upstream of confluence with Canada de Los Pino Reales	*6,219
Rio Grande—Below Espanola:	
At downstream County boundary	*5,539
At confluence of Arroyo Seco	*5,565
At upstream County boundary	*5,579
Rio Grande—Above Rio Chama:	
Approximately 0.5 mile downstream confluence of Arroyo de Chinguague	*5,640
At confluence of Arroyo del Palacio	*5,684
Approximately 1.1 miles upstream of confluence of Arroyo del Palacio	*5,696
Maps available for inspection at the County Manager's Office, Espanola, New Mexico.	
Send comments to The Honorable Emilo Naranjo, Rio Arriba County Manager, P.O. Box 1256, Espanola, New Mexico 87532.	
Taos County (unincorporated areas)	
Rio Pueblo De Taos:	
Approximately 1,600 feet downstream confluence with Rio Lucero	*6,860
Approximately 100 feet downstream of County Road	*6,916
At upstream County boundary	*6,950
Rio Lucero:	
Approximately 50 feet upstream confluence with Rio Pueblo De Taos	*6,882
Approximately 1,350 feet downstream of State Route 3	*6,941
Approximately 0.5 mile upstream of State Route 3	*6,995
Maps available for inspection at the Taos County Courthouse, Planning Department, Taos, New Mexico.	
Send comments to The Honorable Lewis Gallegos, Chairman of the Taos County Board of Commissioners, P.O. Box 1914, Taos, New Mexico 87571.	
NEW YORK	
New Hempstead (village), Rockland County	
North Branch Pascack Brook:	
At downstream corporate limits	*497
Approximately 100 feet upstream of Greenridge Way	*515
Willow Tree Brook:	
Corporate limits at Grandview Avenue	*566
Approximately 670 feet upstream of Grandview Avenue	*567
Maps available for inspection at the New Hempstead Village Hall, 8 Old Schoolhouse Road, New City, New York.	
Send comments to The Honorable Stanley J. Teich, Mayor of the Village of New Hempstead, Rockland County, 34 Bridle Road, New Hempstead, New York 10977.	
NORTH CAROLINA	
East Laurinburg (town), Scotland County	
Leith Creek:	
Just downstream of Laurinburg and Southern Railroad (downstream crossing)	*192
About 550 feet upstream of McKay Street	*199
Maps available for inspection at the Town Hall, Fifth Street, East Laurinburg, North Carolina.	
Send comments to The Honorable Paul Britt, Mayor, Town of East Laurinburg, Town Hall, Fifth Street, East Laurinburg, North Carolina 28352.	
Scotland County (unincorporated areas)	
Gum Swamp Creek:	
About 800 feet downstream of State Road 79	*187
About 1,000 feet upstream of State Road 79	*189
Leith Creek:	
Just upstream of U.S. Route 74 Bypass	*179
About 3,000 feet upstream of Laurinburg and Southern Railroad	*194
Little Creek:	
At mouth	*180
Just downstream of Highland Road	*188
Just upstream of Highland Road	*196
Just downstream of Wagram Road	*219
Lumber River:	
About 1,700 feet downstream of Red Springs Road	*189
About 3.0 miles upstream of McGirts Bridge Road	*206
Maps available for inspection at the County Complex, Laurinburg, North Carolina.	
Send comments to The Honorable John Q. Byrd, County Manager, Scotland County, County Complex, Box 489, Laurinburg, North Carolina 28352.	
OKLAHOMA	
Ottawa County (unincorporated areas)	
Little Elm Creek:	
At confluence with Neosho River	*772
State Highway 10	*772
Approximately 18,300 feet above confluence with Neosho River	*789
Lost Creek (Lower Reach):	
At Main Street	*757
Approximately 13,700 feet above confluence with Lake of the Cherokees	*768
Lost Creek (Upper Reach):	
Approximately 45,800 feet above confluence with Lake of the Cherokees	*829
At Burlington Northern Railroad	*837
At Ottawa County boundary	*847
Neosho River:	
Approximately 49,000 feet above confluence with Spring River	*769
At Interstate Highway 144	*772
At confluence of Tar Creek	*773
Approximately 2,750 feet upstream of confluence of Tar Creek	*774
Tar Creek:	
At confluence with Neosho River	*773
At 22nd Avenue	*789
Approximately 6,550 feet upstream of D Street	*795
Warren Branch:	
Approximately 19,600 feet above confluence with Spring River	*855
Approximately 27,000 feet above confluence with Spring River	*895
Maps available for inspection at the Ottawa County Courthouse, Miami, Oklahoma.	
Send comments to The Honorable Don J. McElhany, Chairman of the Ottawa County Commissioners, County Courthouse, Miami, Oklahoma 74354.	
Wagoner County (unincorporated areas)	
Verdigris River:	
At State Route 16	*516
At upstream side of State Route 51	*533
At most upstream County boundary	*558
Verdigris River Divergence Channel:	
At confluence with Verdigris River	*516
At divergence from Verdigris River	*525
East Coal Creek:	
At confluence with Verdigris River	*526
Approximately .31 mile upstream of Pierce Avenue	*576
West Coal Creek:	
At confluence with Verdigris River	*542
Approximately 220 feet upstream of Lone Star Road	*547
At upstream side of 305th East Avenue	*587
At upstream side of 273rd East Avenue	*641
Approximately .97 mile upstream of 91st Street South	*695
Adams Creek:	
At confluence with Verdigris River	*546
At upstream side of 273rd East Avenue	*577
At upstream side of 225th East Avenue	*615
At 193rd East Avenue	*663
Springtown Creek:	
At confluence with Adams Creek	*567
Approximately .58 mile upstream of confluence with Adams Creek	*581
Midway Creek:	
At confluence with Adams Creek	*578
Approximately 1.04 miles upstream of 257th East Avenue	*601
Timber Creek:	
At confluence with Adams Creek	*598
Approximately 50 feet upstream of 257th East Avenue	*629
Covington Creek:	
At downstream side of 71st Street South	*608
At upstream side of 91st Street South	*658

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. ²Elevation in feet (NGVD)
Approximately 250 feet upstream of 101st Street South	*692
Covington Creek Tributary:	
At confluence with Covington Creek	*612
Approximately .81 mile upstream of Gafford Boulevard	*639
School Creek:	
At confluence with Adams Creek	*604
Approximately .77 mile upstream of 81st Street South	*657
Lone Star Creek:	
At confluence with Adams Creek	*642
Approximately .32 mile upstream of 61st Street South	*678
Salt Creek:	
At confluence with Verdigris River	*557
Approximately .51 mile upstream of confluence of Salt Creek Tributary 2	*618
Salt Creek Tributary 1:	
At confluence with Salt Creek	*579
Approximately .52 mile upstream of confluence with Salt Creek	*590
Salt Creek Tributary 2:	
At confluence with Salt Creek	*608
Approximately .40 mile upstream of confluence with Salt Creek	*613
Spunky Creek:	
At downstream County boundary	*599
At upstream side of 21st Street South	*645
Approximately .72 mile upstream of 193rd East Avenue	*668
Spunky Creek Tributary A:	
At upstream side of State Route 33	*617
At downstream side of 193rd East Avenue	*632
Broken Arrow Creek:	
At upstream side of 193rd East Avenue (first crossing)	*616
At downstream side of 193rd East Avenue (second crossing)	*667
Broken Arrow Creek Tributary:	
At confluence with Broken Arrow Creek	*626
Approximately 1.81 miles upstream of 209th East Avenue	*663
Arkansas River:	
At confluence of Verdigris River	*516
Approximately .55 mile downstream of upstream County boundary	*578
Approximately 1.48 miles upstream of upstream County boundary	*581
Neosho River:	
Approximately 0.4 mile downstream of Missouri Pacific Railroad	*516
Approximately 1.66 miles upstream of Missouri Pacific Railroad	*519
Coweta Creek:	
At confluence with Arkansas River	*571
At upstream side of 141st Street South	*620
Approximately .98 mile upstream of confluence of Coweta Creek	*668
Tributary B	
Coweta Creek Tributary A:	
At upstream side of 289th East Avenue	*638
At 131st Street South	*641
Coweta Creek Tributary B:	
At confluence with Coweta Creek	*654
Approximately .63 mile upstream of confluence with Coweta Creek	*667
Middle Branch Tributary:	
Approximately 1.0 mile upstream of confluence with Coweta Creek	*629
Approximately 1.70 miles upstream of confluence with Coweta Creek	*652

Maps available for inspection at the Wagoner County Courthouse, Wagoner, Oklahoma.

Send comments to The Honorable Allen Farley, Chairman of the Wagoner County Board of Commissioners, P.O. Box 156, Wagoner, Oklahoma 74477.

SOUTH CAROLINA

Sumter County (unincorporated areas)

Alligator Branch:	
Just upstream of Brewington Road	*124
Just downstream of U.S. Route 378	*143
Beech Creek:	
Just upstream of Claremont Road	*125
Just downstream of Barnwell Road	*161
Just upstream of Barnwell Road	*168
About 1.0 mile upstream of Barnwell Road	*181
Causeway Branch:	
At confluence with Green Swamp	*149
About 0.9 mile upstream of Keels Road	*178
Long Branch:	
At mouth	*159
Just upstream of U.S. Route 378	*173
Mush Swamp:	
At mouth	*154
Just downstream of Loring Mill Road	*164
Robert Branch:	
Just upstream of Claremont Road	*133
Just downstream of Ben Sanders Road	*203
Green Swamp:	
At mouth	*126
Just downstream of Old West Liberty Street	*142
Just upstream of Old West Liberty Street	*149
Just downstream of Mason Road	*170
Shot Pouch Creek:	
About 1.1 miles downstream of Jefferson Road	*169
About 2,400 feet downstream of Jefferson Road	*175
Rocky Bluff Swamp:	
About 1.0 mile downstream of Oswego Road	*126
About 1.2 miles upstream of Oswego Road	*134
Turkey Creek:	
At mouth	*119
About 800 feet downstream of Wanning Avenue	*120
Just upstream of Wanning Avenue	*125
About 1.3 miles upstream of East Red Bay Road	*136
Pocotaligo River:	
About 1.6 miles downstream of confluence of Turkey Creek	*115
At confluence of Green Swamp	*126
Cane Savannah Creek:	
At mouth	*126
Just upstream of Pineview Avenue	*138
Mile Branch:	
Just upstream of U.S. Route 378	*146
About 1,400 feet upstream of Winkles Road	*150
Shallow flooding (overflow from Mile Branch) Within community	*146
Carolina Bay 1: About 1,300 feet southwest of intersection of Berkwood Road and Brewington Road	*124
Carolina Bay 5: About 1,000 feet southwest of intersection of U.S. Route 521 and State Route 120	*177
Carolina Bay 6: About 400 feet east of intersection of Babbit Road and Harwood Drive	*197
Carolina Bay 7: About 2,200 feet southeast of intersection of U.S. Route 378 and State Route 120	*173
Carolina Bay 8: About 1,500 feet southwest of intersection of Brownfield Road and Wilson Hall Road	*173
Carolina Bay 9: About 3,000 feet east of intersection of Loring Mill Road and Wise Drive	*181
Carolina Bay 10: About 3,200 feet east of intersection of Loring Mill Road and Wise Drive	*180
Carolina Bay 11: Just southwest of intersection of St. Pauls Church Road and Folly Road	*192
Carolina Bay 12: About 2,900 feet southeast of intersection of Loring Mill Road and Wise Drive	*175
Carolina Bay 13: About 700 feet southwest of intersection of Loring Mill Road and Keels Road	*178
Carolina Bay 14: About 800 feet southwest of intersection of Loring Mill Road and Keels Road	*174
Carolina Bay 16: About 1.2 miles east of intersection of Pitts Road and CSX	*174
Carolina Bay 18: About 4,000 feet east of intersection of Pitts Road and CSX	*175
Carolina Bay 19: About 1.4 miles east of intersection of Pitts Road and CSX	*162
Carolina Bay 20: About 1,000 feet south of intersection of Pitts Road and CSX	*178
Carolina Bay 21: About 800 feet southeast of intersection of Pitts Road and CSX	*173
Carolina Bay 22: About 600 feet southwest of intersection of Stadium Road and McCray's Mill Road	*174
Carolina Bay 23: About 2,300 feet south of intersection of Pitts Road and CSX	*173
Carolina Bay 24: About 3,000 feet southwest of McCray's Mill Road and Stadium Road	*179
Carolina Bay 25: About 1,600 feet southeast of intersection of McCray's Mill Road and Stadium Road	*164
Carolina Bay 30: About 500 feet southeast of Cains Mill Road and Church Road	*171

Maps available for inspection at the County Courthouse, 141 North Main Street, Sumter, South Carolina.

Send comments to The Honorable William A. Frick, County Administrator, Sumter County, County Courthouse, 141 North Main Street, Sumter, South Carolina 29150.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
TENNESSEE	
Lawrence County (unincorporated areas)	
Shoal Creek:	
At Old Shoal Creek Dam	*790
Just upstream of Old Shoal Creek Dam	*795
At confluence of Beeler Fork Shoal Creek	*846
Beeler Fork Shoal Creek:	
At confluence of Shoal Creek	*846
About 1.3 miles upstream of Quail Drive	*866
Little Shoal Creek:	
At mouth	*807
Just downstream of Mount Ararat Road	*866
Crowson Creek:	
About 400 feet upstream of Old Waynesboro Road	*806
About 1.5 miles upstream of Old Waynesboro Road	*820
Tripp Town Branch:	
At mouth	*846
About 1.35 miles upstream of mouth	*880
Big Dry Branch:	
At confluence of Tripp Town Branch	*880
Just downstream of Weakley Creek Road	*916
Maps available for inspection at the Building Official's Office, County Courthouse, Lawrenceburg, Tennessee.	
Send comments to The Honorable Marty Dunkin, County Executive, Lawrence County, County Courthouse, Lawrenceburg, Tennessee 38474.	
TEXAS	
Lewisville (city), Dallas and Denton Counties	
Elm Fork Trinity River:	
At confluence of Timber Creek	*451
At confluence of Midway Branch	*456
Approximately 400 feet downstream of State Route 121	*461
At confluence of Prairie Creek	*462
Denton Creek:	
Approximately 3.4 miles above confluence with Elm Fork Trinity River	*451
Downstream side of Denton Tap Road	*459
Approximately 8.2 miles above confluence with Elm Fork Trinity River	*470
Approximately 8.5 miles above confluence with Elm Fork Trinity River	*470
Maps available for inspection at the Department of Public Works, 1000 North Kealey, Lewisville, Texas.	
Send comments to The Honorable Donny Daniels, Mayor of the City of Lewisville, Dallas and Denton Counties, 151 West Church Street, Lewisville, Texas 75067.	
VERMONT	
Newfane (town), Windham County	
West River:	
Approximately 1.2 miles downstream from confluence of Smith Brook	*356
U.S. Geological Survey gage 01156000	*395
Smith Brook:	
At River Road	*408
Approximately 120 feet upstream from South Wardsboro Road	*608
Rock River:	
At Sunset Lake Road	*496
At confluence of Marlboro Branch	*634
Approximately 230 feet upstream from Dover Road	*822
Maps available for inspection at the Town Clerk's Vault, Newfane, Vermont.	
Send comments to The Honorable Jim Grey, Chairman of the Town of Newfane Board of Selectmen, Windham County, Town Hall, P.O. Box 36, Newfane, Vermont 05345.	
Reading (town), Windsor County	
Knapp Brook:	
At confluence with North Branch Black River	*688
At upstream corporate limits	*731
North Branch Black River:	
At downstream corporate limits	*678
Approximately 350 feet upstream of State Route 106	*735
Approximately 0.3 mile upstream of State Route 106	*804
Maps available for inspection at the Town Clerk's Vault, Reading, Vermont.	
Send comments to The Honorable Robert Allen, Chairman of the Town of Reading Board of Selectmen, Windsor County, Town Hall, P.O. Box 44, Reading, Vermont 05062.	
VIRGINIA	
Bland County (unincorporated areas)	
Hunting Camp Creek:	
At confluence with Wolf Creek	*2,162
At approximately 1,000 feet upstream from State Road 615	*2,218
At approximately 2.5 miles upstream from State Road 615	*2,275
Laurel Creek:	
At confluence with Wolf Creek	*1,992
Approximately 1.2 miles upstream from confluence of Dry Fork	*2,152
Dry Fork:	
At confluence with Laurel Creek	*2,086
At approximately 325 feet upstream of 3rd upstream crossing of State Road 613	*2,149
Wolf Creek (Lower Reach):	
At approximately 1.5 miles downstream of first downstream crossing of U.S. Routes 21 and 52	*2,116
At approximately .67 mile upstream from confluence of Hunting Camp Creek	*2,189
Wolf Creek (Upper Reach):	
At approximately 1.6 miles downstream from State Road 614 (1st crossing)	*2,272
At 100 feet upstream from 2nd crossing of State Route 614	*2,346
At approximately 2 miles upstream from the 2nd crossing of State Road 614	*2,470
Maps available for inspection at the County Clerk's Office, Courthouse Building, Bland, Virginia.	
Send comments to The Honorable Fay Lambert, Chairman of Bland County Board of Supervisors, P.O. Box 295, Bland, Virginia 24315.	
Essex County (unincorporated areas)	
Rappahannock River: Entire shoreline	*7
Maps available for inspection at the Department of Building and Zoning, Prince Street, Tappahannock, Virginia.	
Send comments to The Honorable James F. Moore, Essex County Administrator, P.O. Box 1079, Tappahannock, Virginia 22560.	
Middlesex County (unincorporated areas)	
Chesapeake Bay:	
Approximately 100 feet southeast of intersection of State Routes 636 & 643	*7
Shoreline at State Route 1107 (extended)	*7
At Stingray Point	*11
Rappahannock River:	
Upstream side of State Route 3 bridge	*7
Shoreline at Parrot Island	*11
Piankatank River: At Doctor Point	*7
Maps available for inspection at the Zoning Office, County Courthouse, Saluda, Virginia.	
Send comments to The Honorable Phill Gay, Middlesex County Administrator, County Courthouse, P.O. Box 428, Saluda, Virginia 23149.	
York County (unincorporated areas)	
Chesapeake Bay:	
At the intersection of State Routes 622 and 212	*8
Shoreline at York Point Drive extended	*12
Poquoson River:	
Shoreline at Tide Mill Road extended	*8
Shoreline at River Point Drive extended	*12
Back Creek:	
At intersection of Back Creek Road and Clayton Creek Road	*8
Shoreline at Back Creek Road extended	*12
Chisman Creek:	
At intersection of Ship Point Road and Anchor Drive	*9
Shoreline at Anchor Drive extended	*12
Lambs Creek:	
On Lambs Creek Drive approximately 1,200 feet east of intersection of Lambs Creek Drive and Calthrop Neck Road	*8
Shoreline 2,000 feet northeast of intersection of Calthrop Neck Road and Shackleford Road	*12
York River:	
Shoreline at Ferry Point	*7
At intersection of U.S. Route 17 and State Route 238	*9
Shoreline at U.S. Route 17 bridge	*12
Brick Kiln Creek: At State Route 134 bridge	*9

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the County Planning Department, County Administrative Office Building, Yorktown, Virginia.	
Send comments to The Honorable John M. Richardson, York County Administrator, 224 Ballard Street, P.O. Box 532, Yorktown, Virginia 23690.	
WISCONSIN	
Gilman (village), Taylor County	
Yellow River:	
About 0.36 mile downstream of Soo Line Railway	*1,205
About 0.58 mile upstream of 5th Street	*1,216
Tributary A:	
At mouth	*1,208
Just upstream of Riverside Drive	*1,214
About 1,200 feet upstream of State Highway 64	*1,216
Maps available for inspection at the Village Hall, 380 East Main Street, Box 157, Gilman, Wisconsin.	
Send comments to The Honorable Gerald H. DeStaercke, Village President, Village of Gilman, Village Hall, 380 East Main Street, Box 157, Gilman, Wisconsin 54433.	
Grantsburg (village), Burnett County	
Wood River:	
About 3,500 feet downstream of Grantsburg Lake Dam	*888
About 2,000 feet upstream of Oak Street	*894
Maps available for inspection at the Village Hall, 416 South Pine Street, Grantsburg, Wisconsin.	
Send comments to The Honorable James N. McNally, Village President, Village of Grantsburg, Village Hall, Box D-3, Route 1, 416 South Pine Street, Grantsburg, Wisconsin 54840.	

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Arkansas	City of Cabot, Lonoke County.	Bayou Two Prairie	At downstream corporate limits	None	*266
			Approximately .21 mile upstream of upstream corporate limits.	None	*269
		Drain 1	At corporate limits	None	*265
			Approximately .74 mile upstream of corporate limits.	None	*274
		Drain 2	At corporate limits	None	*268
			Approximately 535 feet upstream of confluence of Drain 2A.	None	*274
		Drain 2A	At confluence with Drain 2	None	*273
			At Barnwell Street	None	*279
		Drain 3	At Kerr Station Road	None	*275
			At upstream side of State Route 89	None	*286
		Drain 3A	At Kerr Station Road	None	*275
			At State Route 89	None	*291
		Drain 3B	At confluence with Drain 3A	None	*280
			Approximately 90 feet upstream of State Route 89.	None	*288
		Drain 35	At confluence with Drain 3	None	*277
			Approximately 50 feet upstream of State Route 89.	None	*287
		Drain 4	At Kerr Station Road	None	*277
			Approximately 240 feet upstream of upstream corporate limits.	None	*290
	Maps available for inspection at the City Hall, Cabot, Arkansas. Send comments to The Honorable N.E. Smith, Mayor of the City of Cabot, Lonoke County, P.O. Box 1113, Cabot, Arkansas 72023.				
Arkansas	England, City, Lonoke County.	Wabbaseka Bayou	At downstream corporate limits	None	*222
			Approximately .28 mile upstream of upstream corporate limits.	None	*225
	Maps available for inspection at the City Hall, England, Arkansas. Send comments to The Honorable Roy Cox, Mayor of the City of England, Lonoke County, City Hall, Box 249, England, Arkansas 72046.				
Georgia	City of Cedartown, Polk County.	Cedar Creek	About 350 feet downstream of confluence of Skeeter Branch.	*769	*768
			About 3,550 feet upstream of Canal Street	*778	*778
		Skeeter Branch	About 850 feet downstream of North Cave Spring Road.	*769	*768
			Just downstream of College Street	*775	*772

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of College Street	*776	*778
			About 3,200 feet upstream of Norfolk Southern Railway.	None	*797
		South Prong Skeeter Branch	At mouth	*783	*784
			About 1,500 feet upstream of East Avenue	*795	*797
		Tanyard Branch	At confluence with Cedar Creek	*775	*776
			Just upstream of CSX railroad	*795	*795
Maps available for inspection at the Building Inspector's Office, City Hall, Cedartown, Georgia.					
Send comments to The Honorable Bart Wood, Chairman, City Commission, City of Cedartown, City Hall, P.O. Box 65, Cedartown, Georgia 30125.					
Illinois	City of Aurora, Kane and DuPage Counties.	Indian Creek	At mouth	*636	*636
			Just downstream of High Street	*650	*652
			Just upstream of High Street	*654	*658
			About 2,300 feet upstream of Bilter Road	*726	*729
		Selmarten Creek	At confluence with Indian Creek	*715	*716
			About 3,100 feet upstream of Selmarten Road	*715	*720
		South Tributary	At mouth	None	*684
			About 700 feet upstream of mouth	None	*688
		Tributary B	Just upstream of Farnsworth Avenue	None	*712
			About 3,700 feet upsteam of Farnsworth Avenue.	None	*716
Maps available for inspection at the City Hall, 44 East Downer Place, Aurora, Illinois.					
Send comments to The Honorable David Pierce, Mayor, City of Aurora, City Hall, 44 East Downer Place, Aurora, Illinois 60507.					
Indiana	Town of Roseland, St. Joseph County.	Judy Creek	Just upstream of Cleveland Road	*713	*711
			About 750 feet upstream of Myrtle Street	*715	*714
Maps available for inspection at the Building Commission, Town Hall, South Bend, Indiana.					
Send comments to The Honorable Charles Landsman, President, Town of Roseland, Town Hall, 200 Independence Drive, South Bend, Indiana 46637.					
Michigan	Township of Putnam, Livingston County.	Honey Creek	Just upstream of Darwin Road	None	*860
			Just downstream of Pinchney Road	None	*868
		Portage River	About 0.6 mile downstream of Hi-Land Lake Dam.	None	*872
			Just downstream of Hi-Land Lake Dam	None	*874
		Portage Lake	Along shoreline	None	*852
		Silver Lake	do	None	*876
		Hi-Land Lake	do	None	*884
		Halfmoon Lake	do	None	*885
		Patterson Lake	do	None	*887
Maps available for inspection at the Putnam Township Hall, 131 South Howell, Pinckney, Michigan.					
Send comments to The Honorable Bruce E. Chapman, Supervisor, Township of Putnam, Township Hall, 131 South Howell, P.O. Box 46, Pinckney, Michigan 48169.					
Mississippi	City of Cleveland, Bolivar County.	Lead Bayou-West Main Canal	About 1.5 miles downstream of White Street	None	*135
			Just downstream of Rosemary Road	*139	*138
Maps available for inspection at the City Hall, Cleveland, Mississippi.					
Send comments to The Honorable Martin T. King, Mayor, City of Cleveland, P.O. Box 1439, Cleveland, Mississippi 38732.					
North Carolina	Unincorporated Areas of Guilford County.	Horsepen Creek Tributary No. 1.	At mouth	None	*757
			Just upstream of dam	None	*758
			Just upstream of dam	None	*770
			About 1,350 feet upstream of dam	None	*771
		Horsepen Creek Tributary No. 2.	At mouth	None	*763
			About 600 feet upstream of New Garden Road	None	*782
		Richland Creek	At mouth	*720	*720
			About 0.81 mile upstream of Bass Chapel Road.	*756	*755
		North Buffalo Creek	At mouth	*672	*672
			About 3,100 feet upstream of confluence of Muddy Creek.	None	*716
		South Buffalo Creek	At mouth	*672	*672
			Above 1,400 feet upstream of Interstate 85	None	*724

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the County Courhouse, 301 West Market Street, Greensboro, North Carolina. Send comments to the Honorable John Witherspoon, County Manager, Guilford County, County Courthouse, 301 West Market Street, Room 107, Greensboro, North Carolina 27402.					
Tennessee	City of Lawrenceburg, Lawrence County.	Shoal Creek	About 0.7 mile upstream of Old Shoal Creek Dam.	*793	*799
			Just downstream of confluence of Tripp Town Branch.	*840	*845
		Little Shoal Creek	At mouth	*801	*807
			Just downstream of Tripp Road	None	*864
		Crowson Creek	At mouth	*797	*804
			About 1.5 miles upstream of Old Waynesboro Road.	*818	*820
		Tripp Town Branch	Within community	None	*846
Maps available for inspection at the Building Official's Office, City Hall, Lawrenceburg, Tennessee. Send comments to The Honorable Ivan Johnston, Mayor, City of Lawrenceburg, P.O. Box 590, Lawrenceburg, Tennessee 38474.					
Texas	Brazoria County Unincorporated Areas	Brazos River	Upstream side of State Route 36	None	*8
			At County Route	None	*11
			At Route 933 (extended)	None	*11
			Approximately 0.5 mile downstream of River Mile 13.0.	*4	*16
			Approximately 2.0 miles east of intersection of FM 521 & County Route 508.	None	*24
			Approximately 3.9 miles upstream of FM 1462	*57	*56
		Oyster Creek	Upstream side of County Route 226	*13	*10
			Approximately 500 feet north of Missouri-Pacific Railroad, east of the City of Clute.	#1	*10
			Approximately 1,500 feet east of River Mile 14	#1	*12
			Upstream side of County Route 290	*30	*27
			Intersection of County Routes 28 & 893B	#1	*30
			300 feet west of intersection FM 521 and County Route 30.	#1	*35
			Upstream county boundary	*59	*54
		Brushy Bayou	Approximately 0.5 mile downstream of King Road.	None	*9
			Downstream side of County Route 212	None	*13
		Cocklebur Slough	Approximately 0.8 mile upstream of County Route 306.	*10	*11
		San Bernard River	At the City of Freeport most western corporate limit.	*7	*8
			Approximately 2.0 miles downstream of FM 521.	*15	*16
			Approximately 400 feet upstream of State Route 35.	*25	*26
			Upstream side of FM 1301	None	*43
			Approximately 1.9 miles downstream of county boundary.	None	*58
		Mound Creek	Confluence with San Bernard River	*19	*31
			Approximately 2.0 miles upstream of County Route 450.	*30	*31
		Varner Creek	Confluence with Brazos River	*30	*28
			Approximately 2.5 miles upstream of confluence with Brazos River.	*32	*31
		Bell Creek	Confluence with San Bernard River	*25	*26
			Approximately 0.76 mile upstream of State Route 35.	*25	*26
			Approximately 1,500 feet northwest of Oyster Creek River Mile 35.0.	#1	*27
		Mustang Bayou	North side of intersection of County Route 58 and County Route 48.	None	*64
			Old Mustang Bayou channel 400 feet west of the terminus of County Route 95.	None	*52
		Cow Creek	Approximately 1,300 feet upstream of County Route 25.	*53	*36
			Approximately 200 feet upstream of County Route 17.	*53	*52
		Sheet Flow	Intersection of Davis Bend Road and Bennett Road.	None	#2
			Parker Road 2,000 feet northeast of Briscoe Canal.	None	#3
			Parker Road 5,000 feet northeast of Briscoe Canal.	None	#1
			At Topeka and Santa Fe Railway South of American Canal.	None	#1

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			At the intersection of FM 527 and Friendswood Road.	None	#2
			Approximately 4,100 feet northwest along County Route 135, 400 feet from intersection of County Route 400 and State Route 36.	None	#1
			Approximately 1 mile north of Darrington State Prison Farm on Brazoria County boundary.	*59	#2
			Approximately 4,000 feet north of Darrington State Prison Farm, west of Oyster Creek River Mile 82.0.	*58	#2
			Approximately 2,000 feet north of terminus of County Route 570.	*56	#2
			Approximately 1 mile west of the intersection of County Routes 42 and 570.	*55	#2
			Approximately 1,000 feet south of Brazos River River Mile 62.	*56	#1
			At County Route 42 approximately 1.2 mile north of intersection of County Route 42 and FM 1462.	*55	#1
			Approximately 2,700 feet southeast of Brazos River River Mile 53.0.	*47	#1
			Approximately 3,000 feet southeast of Brazos River River Mile 53.0.	*47	#2
			Approximately 4,800 feet east-southeast of Brazos River River Mile 52.0.	*45	#2
			Approximately 2,200 feet east-southeast of Brazos River River Mile 52.0.	*46	#1
			Approximately 1.1 miles west of the terminus of County Route 34.	*41	#1
			Approximately 2,000 feet north of Senna Bean Lake.	*38	#1
			Approximately 1,500 feet south of Senna Bean Lake.	*37	#1
			Approximately 1.7 mile southeast along County Route 400 from the intersection of County Route 400 and County Route 912.	*19	#1
			Approximately 1.2 miles southeast of Brazos River River Mile 19.0.	*18	#1
			Approximately 800 feet south of Brazos River River Mile 18.0.	*19	#2
			Approximately 1.6 miles south of Brazos River River Mile 18.0.	*18	#2
			Approximately 2,600 feet southeast of Brazos River River Mile 18.0.	*19	#1
			Approximately 1.6 miles south of Brazos River River Mile 16.0.	*17	#1
			Approximately 2,000 feet southwest of Brazos River River Mile 15.0.	*17	#2
			Approximately 1.5 miles south of Brazos River River Mile 15.0.	*16	#2
			Approximately 1.7 miles northwest along County Route 400 from intersection of County Route 400 and Perry Landing Lane.	*16	#1
			Approximately 1,500 feet northwest along County Route 400 from intersection of County Route 400 and Perry Landing Lane.	*14	#1
			Approximately 3,600 feet southeast along County Route 400 from intersection of County Route 400 and Perry Landing Lane.	*13	#1
			Approximately 2.4 miles southeast along County Route 400 from intersection of County Route 400 and Perry Landing Lane.	*11	#1
			Approximately 100 feet west of the intersection of County Route 306 and FM 2918.	*10	#1

Maps available for inspection at the County Courthouse, Angleton, Texas.

Send comments to The Honorable John Damon, Brazoria County Judge, County Courthouse Angleton, Texas 77515.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: April 11, 1988.

[FR Doc. 88-8290 Filed 4-14-88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 63

[CC Docket No. 86-494; FCC 88-71]

Common Carrier Services: In the Matter of Regulatory Policies and International Telecommunications

AGENCY: Federal Communications Commission.

ACTION: Supplemental Notice of Inquiry (Supplemental NOI).

SUMMARY: The Commission has requested interested parties to file comments on the cost characteristics of international accounting rates, the interrelationship of international accounting rates and national collection rates, and the implications that above-cost international accounting rates may have on U.S. market access concerns. It has also requested comments on the most appropriate procedural mechanism or mechanism to consider the regulatory implications of restrictive foreign standards-setting and procurement practices on U.S. comsumers. (See also a Report and Order on this same subject published elsewhere in todays **Federal Register**).

DATES: Comments must be filed by May 20, 1988 and replies by June 14, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William J. Kirsch (202) 632-4047 or Anna Lim (202) 632-9342, Policy & Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Supplemental Notice of Inquiry, CC Docket 86-494, FCC 88-71, adopted February 25, 1988, and released March 25, 1988.

The full text of this Commission's Supplemental Notice of Inquiry (CC Docket 86-494) is available for inspection and copying during normal business hours in the FCC Dockets Branch, 1919 M Street, NW., Room 230, Washington, D.C. The complete text of the R&O may also be purchased from the Commission's copy contractors, International Transcription Service, 2100 M Street, Suite 140, Washington, DC 20037. (202) 857-3800.

Summary of Supplemental Notice of Inquiry

On December 23, 1986, the Commission adopted a Notice of Inquiry and Proposed Rulemaking (Notice) in CC Docket 86-494 (52 FR 5318) to determine whether the public interest requires that the Commission consider the telecommunications policies of foreign governments in the formulation of U.S. regulatory policies. The inquiry portion of the *Notice* set out four objectives—open entry, nondiscrimination, technological innovation and international comity. It sought comments on actions the Commission could consider to promote these objectives in international telecommunications.

In the *Supplemental NOI*, the Commission expresses concern that the present high level of international accounting rates and the increasing net revenue outflow paid by U.S. carriers to their foreign correspondants may adversely affect the above objectives. It notes that the net revenue outflow paid by U.S. carriers increased from $78.3 million to $1.2 billion from 1975 to 1986 and directs the Common Carrier Bureau to undertake a study of international accounting rates and provide the Commission with a recommendation on what, if any, action the Commission should propose to lower intenational accounting rates for IMTS originating or terminating in the U.S.

The Commission also invites parties to comment on the cost characteristics of international accounting rates, the interrelationship of international accounting rates and national collection rates, and the implications that above-cost international accounting rates may have on U.S. market access concerns.

In addition, the Commission notes the strong interest expressed by the executive branch in the establishment of Commission procedures that provide for routine consultation with the executive branch with respect to trade policy and the need for Commission procedures to address trade issues as they arise. As a result, it requests comments on the most appropriate procedural mechanism or mechanisms for its consideration of the regulatory implications of restrictive foreign standards-setting and procurement practices on the price, quality, and technological sophistication of telecommunications goods and services offered to U.S. consumers. In particular, the Notice invites parties to comment on whether the Commission should consider specific actions in this area only in the context of a rulemaking that would focus on the public interest considerations of such action under the statutory mandate set forth in the Communications Act. The Notice also invites parties to file additional comments on the proper role of the executive branch, including whether the Commission should consider, propose, or take action in this area only after some specified determination by the President, or his designated representative, based on U.S. trade, investment, commercial, defense, and foreign policy consideration.

Ordering clause

Accordingly, it is ordered that comments be field with the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554 on or before May 20, 1988 and replies to comments be filed on or before June 14, 1988.

List of Subjects in 47 CFR Parts 43 and 63

Common carrier.

(Authority: 47 U.S.C. 4(i), 154(i), and 403)

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88-8175 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 68

[CC Docket No. 87-124; FCC 88-123]

Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking and Further Notice of Inquiry.

SUMMARY: The Telecommunications for the Disabled Act of 1982, Public Law No. 97-410 (Disabled Act), requires the Federal Communications Commission to establish such regulations as are necessary to ensure reasonable access to telecommunications services by persons with impaired hearing. In keeping with this mandate, the Commission, in the Notice of Proposed Rulemaking portion of this document, proposes to amend its rules to expand the definition of "essential" telephones to require that more telephones be hearing aid compatible (HAC). In the Further Notice of Inquiry portion of the document, the Commission seeks specific proposals for implementing an interstate relay system for users of Telecommunications Devices for the

Deaf (TDDs), which would enable deaf and speech-impaired persons to carry on real-time conversations with voice telephone users. The Commission also seeks further information on other measures to help the hearing impaired and other disabled persons to access telecommunications services. These actions are further efforts by the Commission to fully implement the policy of the Disabled Act. Comments submitted in this proceeding will be part of the record upon which the Commission will rely in making rule modifications and/or recommendations to Congress for statutory changes necessary to ensure that all persons have reasonable access to telecommunications services.

DATES: Comments must be filed on or before July 26, 1988 and reply comments on or before September 9, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert James, Common Carrier Bureau, Domestic Facilities Division, (202) 634–1831; Richard Violette/Bonnie Gay (News Media) Office of Congressional & Public Affairs, (202) 632–5050.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking and Further Notice of Inquiry in CC Docket No. 87–124, FCC 88–123, adopted March 24, 1988 and released March 29, 1988.

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

Summary of the Notice of Proposed Rulemaking and Further Notice of Inquiry

This proceeding was initiated to gather information concerning the telecommunications needs of the hearing impaired and other disabled persons and to evaluate the need for consideration of regulatory measures or legislative initiatives to ensure reasonable access to telecommunications services by those persons. Ensuring reasonable access to telecommunications services by all Americans has been, and continues to be, a top priority of this Commission. In the Notice of Proposed Rulemaking portion of this document, the Commission proposes specific changes in its regulations that should increase the ability of the hearing impaired to access telephone service by expanding the definition of "essential" telephones that must be HAC. Specifically, the Commission proposes to change § 68.112(c)(1) to require HAC for all credit card telephones. Under the existing rules such telephones must be HAC only if they are not located near a readily available coin operated telephone. This action is based on the Commission's preliminary view that the benefits of including credit card telephones in the class of essential telephones outweigh the costs. The Commission seeks comment on the costs and benefits of this proposal.

The Commission also proposes to expand the definition of essential workplace telephones. Currently, § 68.112(c)(2) of the rules only requires that an HAC telephone be made available at the work station of the hearing impaired employee. The Commission is concerned that this rule may be impairing the ability of these employees to be fully productive workers. It therefore proposes a rule change to expand the range of areas in which workplace telephones must be HAC to include all common areas that hearing impaired employees may need to access in the ordinary course of their employment. These would include telephones in library, reception and similar areas. The Commission seeks comment on its analysis of the costs and benefits of this proposal and asks whether grandfathering is appropriate.

The Further Notice of Inquiry portion of this document seeks comment on important and difficult issues involved in ensuring reasonable access to telephone service for the hearing impaired and other disabled persons, and encourages existing groups with expertise in the area to coordinate the development of consensus proposals. For example, specific proposals are sought for implementing an interstate relay system for users of TDDs, which would enable deaf and speech-impaired persons to carry on real-time interstate conversations with voice telephone users. Such proposals should include data regarding the technical, economic and regulatory parameters for an interstate relay system. Comments on various other issues on which there is not an adequate record is also sought, e.g., the need for requiring a percentage of coin- and card-operated telephone handsets to be equipped with an amplifier, the need for greater dissemination of information regarding the Commission's rules addressing the disabled and the need for standardization of the technical parameters of hearing aids.

Finally, this document also serves as a report to Congress on information gathered to date in this proceeding to aid it in deciding whether to amend the Disabled Act to require that all telephones be compatible with telecoil equipped hearing aids. The Commission found the record does not support a finding that this amendment would resolve the problems being experienced by those among the hearing impaired population who still do not appear to have satisfactory access to telecommunications services. Although it found that various countervailing public interest considerations make it a close question as to whether this amendment to the Disabled Act should be adopted, on balance, it tentatively concluded that this amendment is not necessary at this time to ensure reasonable access by the disabled to telecommunications services.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–8279 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88–132, RM–6016]

Radio Broadcasting Services; Fort Mohave, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ft. Mohave Broadcasting seeking the allotment of Channel 296C2 to Fort Mohave, AZ, as a first local service.

DATES: Comments must be filed on or before May 31, 1988, and reply comments on or before June 15, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Ft. Mohave Broadcasting, P.O. Box 6073, Fort Mohave, AZ 86427.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–132, adopted March 4, 1988, and released April 8, 1988. The full text of this Commission decision is available for inspection and copying during

normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–8318 Filed 4–14–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–131, RM–5849; RM–5949]

Radio Broadcasting Services; Mason City and Iowa City, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on petitions by B-Y Communications, Inc. seeking the substitution of Channel 230C1 for Channel 228A at Mason City, Iowa, and the modification of its license for Station KNIQ to specify the higher powered channel and by KRNA, Inc. seeking the substitution of Channel 231C1 for Channel 230C1 at Iowa City, Iowa, and the modification of its license for Station KRNA(FM) to specify the adjacent channel. Channel 230C1 can be allocated to Mason City in compliance with the Commission's minimum distance separation requirements, and can be used at Station KNIQ's present transmitter location, contingent upon the allocation of Channel 231C1 at Iowa City. Channel 231C1 can be substituted for Channel 230C1 at Iowa City in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) southeast. In accordance with the procedures set forth in § 1.420(g) of the Commission's Rules, B-Y Communications, Inc. will not be required to demonstrate the availability of an additional equivalent channel for use by other interested parties and the Commission will not accept competing expressions of interest in use of the higher powered channel. The provisions of § 1.420(g) do not apply to the substitution at Iowa City since KRNA does not contemplate any increase in its facilities.

DATES: Comments must be filed on or before May 31, 1988, and reply comments on or before June 15, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Michael D. Basile, Esq., Dow, Lohnes & Albertson, 1255 23rd Street NW., Suite 500, Washington, DC 20037 (Counsel to KRNA, Inc.); Jonathan D. Blake, Esq., Neil K. Roman, Esq., Covington & Burling, 1201 Pennsylvania Avenue NW., P.O. Box 7566, Washington, DC 20044 (Counsel to B-Y Communications).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–131, adopted March 4, 1988, and released April 8, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–8319 Filed 4–14–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–128, RM–6168]

Radio Broadcasting Services; Bastrop, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Hagan Broadcasting, Inc., licensee of Station KMYQ–FM, Channel 261A, Bastrop, Louisiana, proposing the substitution of Channel 261C2 for Channel 261A and modification of its license to specify operation on the higher class channel. A site restriction of 10.4 kilometers (6.5 miles) south of Bastrop is required.

DATES: Comments must be filed on or before May 26, 1988, and reply comments on or before June 10, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: James J. Popham, Esquire, Hardy & Popham, 700 Camp Street, New Orleans, LA 70130 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–128, adopted March 3, 1988, and released April 5, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission

consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8320 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-130, RM-6195]

Radio Broadcasting Services; Old Forge, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Ross Broadcasting Company proposing the allocation of Channel 231A to Old Forge, New York, as the community's second local FM service. Channel 231A can be allocated to Old Forge in compliance with the Commission's minimum distance separation requirements without a site restriction. Canadian concurrence in the allotment is required since Old Forge is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before May 31, 1988, and reply comments on or before June 15, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Donald E. Ross, Ross Broadcasting Company, Box 260, Old Forge, New York 13420 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-130, adopted March 7, 1988, and released April 8, 1988. 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 contrator, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8321 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 53, No. 73
Friday, April 15, 1988

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

Office of the Secretary

State of Iowa Financial Incentive Program for Soil Erosion Control Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain State payments made to farmers under the Iowa Financial Incentive Program for Soil Erosion Control are deemed by the Secretary to have been made primarily for purposes of conserving soil and water resources, protecting or restoring the environment or providing a habitat for wildlife. This determination by the Secretary is made in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of them from gross income for federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Iowa Department of Soil Conservation, Wallace State Office Building East Ninth and Grand Avenue, Des Moines, Iowa 50319 (515–281–5851) or James R. McMullen, Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments made under State programs may be eligible for exclusion from gross income if certain determinations are made. The Secretary of Agriculture must determine whether payments made under a state program, as described in section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making this determination the Secretary of Agriculture must evaluate each program according to criteria set forth at 7 CFR Part 14.

One of the State conservation programs is the Iowa Financial Incentive Program for Soil Erosion Control. The program is authorized by the Iowa Code Ann section 467A (West 1987) and implemented in accordance with administrative regulations found at 780 Iowa Admin. Code, Ch. 5 that are promulgated by the Iowa Department of Soil Conservation. The Iowa Financial Incentive Program for Soil Erosion Control (IFIP) is a state funded cost share incentive program designated for the purpose of rendering financial assistance for the restoration and conservation of soil resources in that state.

Funds appropriated by the State legislature for the program go to the Iowa Department of Soil Conservation and are allocated to each of Iowa's 100 soil conservation districts. Each district is governed by five locally elected commissioners who administer the program and make funds available to landowners who have a signed cooperator agreement with the district. Technical assistance is provided through the districts to landowners.

Financial assistance under the program is available for land covered under a cooperator agreement. However, landowners who are required to install practices as a result of an administrative order or court order are not required to meet the district cooperator requirement. Eligible land is nongovernmental land used for agricultural purposes and which is greater than ten acres in size and which produces more than $2500 in value of agricultural products annually. Tracts of less than ten acres in size and from which less than $2500 of agricultural products are sold annually are not considered to be eligible lands unless approved by the district commissioners as a group project or as a continuation of an adjacent system. Cost-share assistance is limited to fifty percent of eligible costs incurred by the applicant in installing eligible practices. Eligible costs are machine hire or use of the applicant's equipment, needed materials delivered to and used at the site, and labor required to install the practice. Each District must execute a certification of need to qualify land for cost shares.

Cost-share payments are made to eligible producers under the program for the satisfactory installation of one of the following soil erosion control and abatement practices:

A. Temporary Practices

1. Iowa Till
2. No-till Planting

B. Permanent Practices

1. Critical Area Planting
2. Diversion
3. Field Windbreak
4. Grade Stabilization Structure
5. Grass Strips
6. Grassed Waterway or Outlet
7. Pasture and Hayland Planting
8. Terrace
9. Underground Outlet
10. Water Sediment Control Basin

The IFIP authorizing legislation, and regulations have been carefully examined using the criteria set forth in 7 CFR Part 14. The Department has concluded that the payments under the IFIP are made to provide financial assistance to agricultural producers for carrying out soil erosion control and abatement practices. An "Iowa Financial Incentive Program for Soil Erosion Control Record of Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS.

Determination

Therefore, the Secretary of Agriculture has determined that, in accordance with section 126(b)(1) of the Internal Revenue Code of 1954, as amended, all payments made for conservation practices under the Iowa Financial Incentive Program for Soil Erosion Control after September 30, 1979, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment,

improving forests, or providing a habitat for wildlife.

Signed at Washington, DC, on April 4 1988.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 88-8347 Filed 4-14-88; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

[Docket No. 88-042]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Insect Tolerant Tomato Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to the Monsanto Agricultural Company to allow the field testing of genetically engineered tomato plants, designed to be tolerant to lepidopteran insects. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tomato plants does not present a risk of plant pest introduction or dissemination and also will not have any significant impact on the quality of the human environment. Based upon this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at the Biotechnology and Environmental Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 406, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. James White, Staff Biotechnologist, Biological Assessment and Support Staff, Biotechnology Permit Unit, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 813, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7769. For copies of the environmental assessment call Ms. Mary Petrie at Area Code (301) 436-7472, or write her at this same address. The environmental assessment should be requested under accession number 87-329-02.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1987, the Animal and Plant Health Inspection Service (APHIS) published a final rule in the **Federal Register** (52 FR 228992-22915) which established a new Part 340 in Title 7 of the Code of Federal Regulations (7 CFR 340) entitled, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests" (hereinafter "the rule"). The rule regulates the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products which are plant pests or which there is reason to believe are plant pests (regulated articles). The rule sets forth procedures for obtaining a permit for the release into the environment of a regulated article and for obtaining limited permits for the importation or interstate movement of a regulated article. A permit must be obtained before a regulated article can be introduced in the United States.

APHIS has stated that it would prepare environmental assessments and, where necessary, environmental impact statements prior to issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

The Monsanto Agricultural Company of St. Louis, Missouri, has submitted an application for a permit for release into the environment of genetically engineered tomato plants that are designed to be tolerant to lepidopteran insects. In the course of reviewing the permit application, APHIS assessed the impact to the environment of releasing the tomato plants under the conditions described in the Monsanto application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will also not have any significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact which is based on data submitted by the Monsanto Agricultural Company, as well as a review of other relevant literature, provides the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene for lepidopteran insect tolerance has been inserted into the tomato chromosome. In nature, chromosomal genetic material can only be transferred to other sexually compatible plants by cross-pollination. In this field test, the introduced gene cannot spread to other plants by cross-pollination, because the field test plot is located at a sufficient distance from any sexually compatible plants with which the experimental tomato plants could cross-pollinate.

2. Neither the insect tolerance gene itself, nor its gene product confers on tomato any plant pest characteristics.

3. The microorganism from which the insect tolerance gene was isolated is not a plant pest and is widely distributed in the environment as a soil inhabitant.

4. The vector used to transfer the insect tolerance gene to tomato plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this experiment. The vector, although derived from a DNA sequence with known plant pest potential, has been disarmed; that is, genes that are necessary for producing plant disease have been removed from the vector. The vector has been tested and shown to be nonpathogenic to susceptible plants.

5. The vector agent, the bacterum that was used to deliver the vector DNA and the insect tolerance gene into the plant cells, has been shown to be eliminated and no longer associated with the transformed tomato plants.

6. Horizontal movement of the introduced gene is not possible. The vector acts by delivering and inserting the gene into the tomato genome (i.e., chromosomal DNA). The vector does not survive in or on the transformed plant. No mechanism of horizontal movement is known to exist in nature to move an inserted gene from a chromosome of a transformed plant to any other organism.

7. The toxic polypeptide produced by the insect tolerance gene is called delta-endotoxin. Upon ingestion, the toxin is activated and kills only lepidopteran insects. Delta-endotoxin is not toxic to most other insects, wild or domestic birds, fish or mammals. Because of its safety, its topical application on vegetable crops is permitted up to harvest date.

8. The field test site is 36 feet wide by 200 feet long and has good physical security. The plot is isolated from many species of wild plants and animals by irrigation canals and a surrounding area of cultivated land.

The environmental assessment and finding of no significant impact has been prepared in accordance with (1) The National Environmental Policy Act of

1969 (NEPA) (42 U.S.C. 4331 *et seq.*); (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (Title 40, Code of Federal Regulations (CFR) Parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR Part 1b); and (4) APHIS guidelines implementing NEPA (44 FR 50381–50384 and 44 FR 51272–51274).

Done at Washington, DC, this 12th day of April, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-8348 Filed 4-14-88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-703]

Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice

SUMMARY: We determine that certain internal-combustion, industrial forklift trucks (forklifts) from Japan are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances exist with respect to certain imports of forklifts from Japan. We have notified the U.S. International Trade Commission (ITC) of our determinations and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of forklifts from Japan as described in the "Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the date of publication of this notice, whether these imports are materially injuring, or threaten material injury to, a U.S. industry.

EFFECTIVE DATE: April 15, 1988.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 377–0187 or 377–0161.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that forklifts from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The weighted-average dumping margins are shown in the "Suspension of Liquidation" section of this notice. We also determine that critical circumstances exist with respect to certain imports of forklifts from Japan, as outlined in the "Critical Circumstances" section of this notice.

Case History

Since our notice of preliminary determination (52 FR 45003, November 24, 1987), the following events have occurred.

On November 24, 27, and 30, and December 1, 1987, Komatsu Forklift Co., Ltd. (Komatsu), Toyota Motor Corp. (Toyota), Nissan Motor Co., Ltd. (Nissan), and Sumitomo-Yale Co., Ltd. (Sumitomo), respectively, requested a postponement of the final determination until not later than 135 days after the date of publication of the preliminary determination, pursuant to section 735(a)(2)(A) of the Act. On December 4, 1987, we issued a notice postponing the final determination until April 7, 1988, and rescheduling the public hearing until March 2, 1988 (52 FR 46805, December 10, 1987).

Scope of Investigation

The products covered by this investigation are certain internal-combustion, industrial forklift trucks, with lifting capacity of 2,000 to 15,000 lbs., currently provided for under items 692.4025, 692.4030, and 692.4070 of the *Tariff Schedules of the United States Annotated* (TSUSA). The corresponding Harmonized System (HS) numbers are 8427.20.00–0, 8427.90.00–0, and 8431.20.00–0. The products covered by this investigation are further described as follows: assembled, not assembled, and less than complete, finished and not finished, operator-riding forklift trucks powered by gasoline, propane, or diesel fuel internal-combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles. Less than complete forklift trucks are defined as imports which include a frame by itself or a frame assembled with one or more component parts. We understand that the frame by itself is the identifying feature and principal component part of the product, and is solely dedicated for the manufacture of a complete internal-combustion, industrial forklift truck.

Used Forklift Issue

Petitioners and several other interested parties have stated that genuinely "used" forklifts should not be included within the scope of this investigation and have submitted suggestions on how the Department can distinguish new and used forklifts. In our preliminary determination, we stated that we considered any forklift to be used if, at the time of entry into the United States, the importer could demonstrate to the satisfaction of the U.S. Customs Service that the forklift was manufactured at least three years prior to the date of entry. We will now consider as used forklifts exported from Japan to the United States if, at the time of entry into the United States, the importer can demonstrate to the satisfaction of the U.S. Customs Service that the forklift was manufactured in a calendar year at least three years prior to the year of entry into the United States. If the U.S. Customs Service accepts the importer's contention that the forklift is used, it will not be subject to the suspension of liquidation (*See* DOC Position to Comment 31).

Period of Investigation

Sales of forklifts often involve significant after-sale price adjustments. In order to capture all after-sale price adjustments on sales of forklifts from Japan to the United States, we chose as the period of investigation the six months from August 1, 1986, through January 31, 1987, as permitted by 19 CFR 353.38(a).

Such or Similar Comparisons

For all respondent companies, pursuant to section 771(16)(C) of the Act, we established four categories of "such or similar" merchandise on the basis of load (lifting) capacity of the forklift (*i.e.*, 2,000–3,000 lbs; 3,001–5,999 lbs.; 6,000–9,999 lbs.; 10,000–15,000 lbs.). Within these categories, we based our product comparisons on 12 primary characteristics. These are load capacity, tire type, upright style, engine type, transmission type, maximum fork height, engine size, carriage type, fork arm type, hose reel, hydraulic control valve, and fork arm length. Where there was no identical product in the home market with which to compare a product imported into the United States, we selected the most similar product on the basis of the 12 characteristics listed above.

In order to determine whether there were sufficient sales of forklifts in the home market to serve as the basis for calculating foreign market value, we compared the volume of home market sales within each such or similar category to the volume of third country sales within each respective such or

similar category, in accordance with section 773(a)(1) of the Act. We determined that, for Toyota and Komatsu, there were sufficient home market sales to unrelated customers or arm's-length sales to related customers for each such or similar category to form an adequate basis for comparison to the forklifts imported into the United States. For Nissan, we determined that there were insufficient home market sales for one such or similar category. Therefore, we used constructed value as the basis for foreign market value for that such or similar category. For Sanki, there were no home market sales of new forklifts. Therefore, we used constructed value as the basis for foreign market value for comparison to all U.S. sales.

Fair Value Comparisons

To determine whether sales of forklifts from Japan to the United States were made at less than fair value, we compared the United States price to the foreign market value as specified below.

For the reasons cited below, we have determined, in accordance with section 776(b) of the Act, that use of best information available is appropriate for Kasagi, TCM, and Sumitomo. This statutory provision requires the Department to use best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner or in the form required, or otherwise significantly impedes an investigation."

Prior to the scheduled date of verification, TCM informed the Department of extensive errors in the data which it had submitted and which the Department had used for the preliminary determination. The Department determined that the necessary revisions to TCM's information were so substantial that such revisions would constitute a new response. While the Department allows minor revisions to questionnaire responses after the preliminary determination and during verification, it is well-established Department policy not to allow new responses to be filed after the preliminary determination. This is because at that point there is insufficient time for proper analysis and verification by the Department. Consequently, the Department informed TCM that it would not accept any new submissions correcting the deficiencies and errors and would not verify TCM's sales and cost of production responses. Nevertheless, TCM submitted a new response on January 8, 1988, more than four months after the original questionnaire response was due and almost two months after our preliminary determination which was on November 18, 1987. This information could not be analyzed, verified, or used in this determination.

Had we accepted this information for use in this determination, we would have been required to analyze, among other things, TCM's new product concordances, costs relating to difference in merchandise claims, and new U.S. value-added data. In addition, we would have had to review computer printouts containing data on a substantial number of sales transactions. Further, given the extensive deficiencies found in TCM's earlier submissions (four deficiency questionnaries were issued with regard to TCM's original questionnaire response), follow-up questionnaires for additional information would have been likely.

A new response submitted so late in this investigation would have precluded petitioners and other interested parties from commenting on the new responses. Moreover, verification of TCM would have been delayed by at least one month, allowing the Department insufficient time to conduct verification, prepare verification reports, hold the public hearing, provide an adequate opportunity for the parties to submit briefs, and to prepare the final notice. For these reasons, we have not accepted TCM's January 8, 1988 response for use in this determination. Accordingly, we have assigned TCM the highest company rate calculated in this investigation as best information available. (*See* also DOC Positions to Comments 5 and 6.)

With respect to Sumitomo, the Department found numerous discrepancies and errors in methodology and mathematical calculations at verification. In addition, Sumitomo was unable to support substantial portions of its sales and cost responses at verification. The deficiencies found during verification are outlined in detail in the public versions of our verification reports. During and after verification, Sumitomo presented new and revised information which we have determined constitutes a new response which was submitted too late in the investigatory process for proper analysis and verification. For these reasons, we have assigned Sumitomo the highest company rate calculated in this investigation as best information available. (*See* also DOC Position to Comment 8 below.)

Kasagi failed to respond to our questionnaire prior to the preliminary determination. It is Department policy not to accept initial questionnaire responses after the preliminary determination is issued. It is inappropriate for a respondent to base its decision to respond to our questionnaire on the rate it is assigned in the preliminary determination. Therefore, we have assigned Kasagi, as best information available, the highest margin supplied in the petition for any company. This is the same rate it was assigned in the preliminary determination.

United States Price

For sales made directly to unrelated parties prior to importation into the United States, we based the United States price on purchase price, in accordance with section 772(b) of the Act.

For sales made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the most appropriate indicator of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;
2. This was a customary commercial channel for sales of this merchandise between the parties involved; and
3. The related selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Where all of the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions are performed in the United States or abroad does not change the substance of the transactions or the functions themselves.

Where the sale to the first unrelated purchaser took place after importation into the United States, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act.

The calculation of United States price for each respondent is detailed below.

A. *Toyota*: We calculated purchase price and ESP based on the packed, c&f, c.i.f., and delivered prices to unrelated customers in the United States. To arrive at the actual gross ESP, we deducted the value of unattached options invoiced with the forklift, where

appropriate. We made deductions from purchase price and ESP, where appropriate, for foreign inland freight, foreign inland insurance, export brokerage, ocean freight, marine insurance, import brokerage, U.S. duty, and U.S. inland freight, in accordance with section 772(d) of the Act. We also made deductions, where appropriate, for discounts and rebates. We made further deductions from ESP, where appropriate, for credit expenses, warranties, advertising, service payments to dealers, and indirect selling expenses, pursuant to sections 772(e)(2) of the Act. For ESP transactions involving further manufacture prior to sale in the United States, we deducted all value added in the United States pursuant to section 772(e)(3) of the Act.

Toyota calculated its credit expense on ESP transactions not financed by Toyota based on the actual number of days between invoice and payment. We recalculated this credit expense to include an additional period of time from shipment to invoice. Toyota calculated its credit expense on ESP transactions financed by Toyota from the date the sale is posted in its books to the date that Toyota no longer absorbs credit costs on behalf of its dealers. We recalculated this credit expense to include an additional period of time from shipment to invoice based on the actual number of days from shipment to invoice, plus four days to account for the average number of days from invoice to the date the sale is posted in Toyota's books.

For inventory carrying costs, Toyota's parent company reported a greater number of days than its subsidiary for the period for which merchandise is held in inventory in Japan. Based on verified information, we recalculated inventory carrying costs to include an additional three days representing the greatest difference between the two reported time periods.

Toyota reported U.S. import duties on fork arms based on the cost of manufacture rather than the sales value. We increased the amount of reported duties based on the difference between the invoice value of the fork arm and its cost of manufacture.

Toyota claimed a deduction from ESP for a rebate to dealers for the installation of options at dealer locations. We treated these expenses as value added since this constitutes further manufacture or processing subcontracted to dealers.

Toyota did not claim, but did incur, expenses related to demonstration forklifts on ESP transactions. Based on documents gathered at verification, we calculated an expense for demonstration vehicles which was applied to sales of the same models as the demonstration vehicles. This was then deducted from the United States price as a direct advertising expense.

Toyota claimed a deduction for U.S. inland insurance. During verification, we discovered that this claim was for property insurance rather than inland insurance. As such, we are treating this as an indirect selling expense.

B. *Nissan*: We calculated ESP based on the packed, c.i.f. and delivered prices to unrelated customers in the United States. To arrive at the actual gross ESP, we added credit revenue earned on each transaction, and deducted the value of unattached options invoiced with the forklift, where appropriate. We made deductions from ESP, where appropriate, for foreign inland freight, foreign inland insurance, shipping charges, invoice preparation fees, ocean freight, marine insurance, U.S. duty, import brokerage, and U.S. drayage, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts and rebates. We made further deductions from ESP, where appropriate, for credit expenses, technical services, warranties, advertising, service payments to dealers, incentive payments to dealers, and indirect selling expenses, pursuant to sections 772(e)(2) of the Act. For ESP transactions involving further manufacture prior to sale in the United States, we deducted all value added in the United States, pursuant to section 772(e)(3) of the Act.

Nissan did not report certain after-sale adjustments to prices and discounts. We amended the prices and discounts reported for after-sale adjustments discovered at verification.

Nissan reported foreign inland freight on U.S. sales based on rates charged by a related trucking company. At verification, we were unable to validate the freight rates claimed on export sales and found that these rates were generally lower than the rates charged by the same trucking company on sales destined for the home market over a comparable distance. Therefore, based on information obtained at verification, we used the rates charged by this trucking company on home market sales for the foreign inland freight deduction on U.S. sales.

Nissan claimed an average brokerage expense on U.S. sales. We recalculated the average to correct errors discovered at verification.

At verification, we found that Nissan based its credit expense and credit revenue calculations on incorrect payment terms. Because we were unable to verify specific payment terms for each sale, we recalculated credit expense and credit revenue based on the longest verified payment term. For sales to end-users, we recalculated the credit expense based on the verified payment terms.

Nissan included in its claimed technical service expenses certain indirect selling expenses and certain value-added expenses. In addition, Nissan underreported its direct travel expenses. We allowed the corrected travel expense figure as a technical service expense directly related to specific sales and treated the remainder, less the value-added expense, as an indirect selling expense.

Nissan underreported its advertising expenses on U.S. sales. We allowed the correct amount based on information reviewed at verification as a direct advertising expense.

Nissan claimed certain incentive payments to dealers' salesmen as an indirect selling expense. We treated these payments as a direct selling expense since they were directly related to particular sales.

We were unable to verify Nissan's total reported U.S. indirect selling expenses incurred in the home market. Since no information was provided by petitioners, we have deducted the full amount reported by Nissan from ESP, as best information available, for purposes of this determination.

Nissan reported inventory carrying costs from the date of export to the date of shipment to the U.S. customer. We added 15 days to account for the period from production to export based on petitioners' experience. We then recalculated inventory carrying costs based on the cost of manufacture of the product as imported and the home market and U.S. short-term borrowing rates.

We were unable to verify Nissan's reported product liability expense on U.S. sales. Therefore, we based the amount used for purposes of this determination on the U.S. industry's product liability experience.

C. *Komatsu*: We calculated purchase price and ESP based on the packed, f.o.b., c.i.f., and delivered prices to unrelated customers in the United States. To arrive at the actual purchase price or ESP, we added credit revenue earned on each transaction, where appropriate, and we deducted the value of unattached options invoiced with the forklift from the gross invoice price. We made deductions from purchase price and ESP, where appropriate, for foreign inland freight, foreign inland insurance, export brokerage, ocean freight, marine insurance, import brokerage, U.S. duty,

and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts and rebates. We made further deductions from ESP, where appropriate, for credit expenses, warranties, advertising, service payments to dealers, and indirect selling expenses, pursuant to sections 772(e) (1) and (2) of the Act.

Komatsu reported certain advertising expenses incurred in the United States as indirect selling expenses. We have treated these expenses as direct selling expenses and reduced indirect selling expenses accordingly.

Komatsu reported inventory carrying costs on ESP sales based on average days in inventory and average inventory values. For this determination, we have recalculated inventory carrying costs for ESP sales from the date of entry into the United States to the date of shipment to the U.S. customer in order to more accurately determine these costs. We also added 45 days for the period from production to entry into the United States based on petitioners' U.S. experience. We then recalculated inventory carrying costs on ESP sales based on the cost of manufacture of the product as imported and the home market and U.S. short-term borrowing rates.

Komatsu reported the total credit expense from the date of shipment to the date of payment, net the amount of interest which Komatsu charged its customers. At verification, Komatsu was unable to substantiate its claim that interest charges levied on U.S. customers were in fact paid. Therefore, we have disallowed this claim and have recalculated credit expenses based on the full amount outstanding from shipment date to payment date. We have used the home market and U.S. short-term borrowing rates as appropriate.

D. *Sanki*: We calculated purchase price based on the c.i.f. prices to unrelated customers in the United States. We made deductions from purchase price, where appropriate, for foreign inland freight, export brokerage, ocean freight, and marine insurance, in accordance with section 772(d)(2) of the Act.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales and, where appropriate, constructed values. The calculation of foreign market value for each respondent is detailed below.

A. *Toyota*: We calculated foreign market value based on the c&f and f.o.b. prices to unrelated and related dealers in the home market. We included sales to related dealers, pursuant to 19 CFR 353.22(b), since we were able to verify that prices paid by those dealers were comparable to prices paid by unrelated dealers for such or similar merchandise.

We made deductions from the home market price, where appropriate, for inland freight and rebates. We added U.S. packing to the home market price, in accordance with section 773(a)(1) of the Act. No packing costs were claimed on home market sales.

For comparisons involving purchase price sales, we made adjustments to the home market price, where appropriate, for differences in credit expenses, warranties, and advertising, pursuant to 19 CFR 353.15. For comparisons involving ESP transactions, we made further deductions from the home market price, where appropriate, for home market credit expenses, warranties, and advertising, and we made an adjustment to the home market price for indirect selling expenses, in accordance with 19 CFR 353.15(c). We made further adjustments to the home market price to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Toyota calculated its home market credit expense based on the actual number of days from invoice to payment. We recalculated this expense based on the actual number of days from shipment to payment.

Toyota claimed an adjustment for temporary exchange rate fluctuations. We disallowed this adjustment pursuant to 19 CFR 353.56(b), since the movement in the exchange rate is part of a sustained change in the rate and not a temporary fluctuation, and because Toyota did not provide evidence that its U.S. prices have been revised to account for the movement in the exchange rate.

Toyota claimed a deduction from the home market price for an advertising campaign for the 500,000th Production—30th Anniversary and for the 1985 International Materials Handling Exhibition. We disallowed these deductions since these expenses were incurred before the period of investigation.

At verification, we found that advertising expenses incurred on purchase price transactions had not been reported. Therefore, based on information obtained at verification, we calculated an amount for advertising and made the adjustment to the home market price.

Toyota claimed a deduction from the home market price for expenses incurred in introducing a new model series to its dealers. We allowed only the portion of the expenses claimed that was incurred during the period of investigation as an indirect selling expense.

Toyota claimed a deduction from the home market price for discounts on the sale of demonstration forklifts of a new model series. We trated these discounts as a direct advertising expense.

Toyota also claimed, as a direct selling expense, and adjustment to the home market price for a computerized customer management system. We disallowed this adjustment since we found that this program was not used for the promotion of sales of the merchandise under investigation.

B. *Nissan*: We calculated foreign market value based on delivered prices to unrelated and related dealers in the home market. We included sales to related dealers, pursuant to 19 CFR 353.22(b), because we were able to verify that prices paid by those dealers were comparable to prices paid by unrelated dealers for such or similar merchandise.

Petitioners alleged that Nissan's home market sales were made at less than the cost of production and that constructed value should be used to compute foreign market value. We compared the home market prices, net inland freight, discounts, and rebates, to the cost of production which included materials, fabrication costs, and general expense.

Cost of production was based on the respondent's information with the following adjustments. To determine actual costs from standard costs, we used the variance of the plant where forklifts are produced instead of the reported company-wide variance. Interest expense was included, based on the consolidated Ministry of Finance Report and supplemented with information from the non-consolidated financial statements when required, after adjusting for credit and inventory carrying costs. The adjusted interest expense was allocated over the actual cost of sales. Material costs from related suppliers were increased based on information gathered at verification for a selected sample of related suppliers with respect to sales of the same materials to unrelated parties. Actual research and development expenses were reallocated based on the actual cost of sales. For selling expenses, we used the data from the sales response (*see* adjustments discussed below). Although we were unable to verify certain items in Nissan's reported indirect selling expenses on home market sales, as best information available, we included the total amount

reported in determining general expenses.

Where there were no, or insufficient, sales of such or similar merchandise at prices above the cost of production, as defined in section 773(b) of the Act, we used constructed value as the basis for calculating foreign market value. Constructed value was based on the respondent's information, except for those changes made to the cost of production data described above. We calculated a weighted-average home market selling expense based on sales in the home market of all products in the appropriate such or similar product category. Since Nissan's general expenses exceeded the statutory minimum of ten percent of the cost of materials and fabrication, we used actual general expenses in calculating the constructed value, in accordance with section 773(e)(1)(B)(i) of the Act. Since Nissan's reported home market profit was less than eight percent of materials, fabrication, and general expenses, we used the statutory minimum of eight percent in calculating constucted value, in accordance with section 773(e)(1)(B)(ii) of the Act.

We added U.S. packing costs to constructed value and made deductions from constructed value for credit expenses, warranties, advertising, technical services, and certain incidental warranty-type expenses. We also made an adjustment to constructed value for indirect selling expenses, in accordance with 19 CFR 353.15(c). Since we were unable to fully verify Nissan's reported indirect selling expenses (*e.g.*, other expenses which accounted for approximately 25 percent of the total claim could not be documented) on home market sales, we allowed those items which were verified.

Where we found sufficient above-cost sales in the home market to form a basis for comparison, we calculated foreign market value based on delivered prices to unrelated and related dealers in the home market. We created a new concordance based on the above-cost home market sales and the products as imported, according to the procedure outlined in the original questionnaire. To determine the actual gross home market price, where appropriate, we added credit revenue. We made deductions from the home market price, where appropriate, for inland freight, discounts, and rebates. We added U.S. packing to the home market price, in accordance with section 773(a)(1) of the Act. No packing costs were claimed on home market sales.

Because all of Nissan's U.S. sales were ESP, we made further deductions from the home market price, where appropriate, for credit expenses, warranties, advertising, technical services, certain incidental warranty-type expenses, and demonstration vehicle expenses, and we made an adjustment to the home market price for indirect selling expenses, in accordance with 19 CFR 353.15(c). We made adjustments to the home market price to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Nissan reduced its home market prices for certain account adjustments offered to its customers based on previous sales. We amended these prices to reflect actual selling prices, based on information reviewed at verification.

Nissan overreported several rebates paid. We allowed the corrected rebates. Nissan reported a certain rebate on two forklifts which did not qualify for the rebate according to the rebate agreement. We did not allow this rebate on these two sales. In addition, Nissan claimed a different type of rebate on home market sales which was never paid. We did not allow this rebate on any sales.

Nissan claimed a deduction from the home market price for certain payments made to dealers with respect to demonstration vehicles. We allowed this payment as a direct advertising expense on sales of the same models as the demonstration vehicles. Nissan also claimed deductions from the home market price for certain payments made to dealers with respect to service vans, facility improvements, and assistance for profit/loss ratios. We allocated these payments over average dealer revenue for sales of new forklifts, sales of parts, and servicing and treated these as indirect selling expenses.

Nissan reported credit expense on installment sales based on an average monthly payment and an average payment date. We recalculated credit expense based on the declining balance of both principal and interest.

Nissan claimed the cost of an exhibition held outside the period of investigation as a direct advertising expense. We did not allow this expense.

Nissan claimed expenses for certain service schools, service manuals, and other training as a direct technical service expense. We treated these as an indirect selling expense.

We were unable to verify certain items in Nissan's reported indirect selling expenses on home market sales. Therefore, we allowed only those items which were verified.

We were unable to verify the average number of days over which Nissan calculated its inventory carrying costs. Therefore, we used an average number of days based on shipment ledgers reviewed at verification. We then recalculated inventory carrying costs based on the cost of manufacture of the product sold and the home market short-term borrowing rate.

Nissan reported a commission paid to its employees on home market sales. We treated this as an indirect selling expense since, in its response, Nissan did not tie these commissions to specific sales.

Nissan claimed warranty expenses incurred outside the warranty period, but within the period of investigation, as a direct selling expense. We treated these expenses as indirect selling expenses since they were not anticipated at the time of the sale, and are not true warranty expenses but rather goodwill expenses.

C. *Komatsu:* Petitioners alleged that Komatsu's home market sales were made at less than the cost of production and that constructed value should be used to compute foreign market value. We compared the home market prices, net inland freight and inland insurance, to the cost of production which included materials, fabrication costs, and general expenses. We made adjustments to G&A to represent an allocation based on the cost of manufacturing rather than the selling price as reported in the response. We also adjusted G&A to include parts center expenses not reported in the response. Interest expense was recalculated to reflect only the interest expense incurred in the cost of manufacturing.

Following the methodology explained above in the "Foreign Market Value" section B for Nissan, we determined that there were sufficient numbers of sales in each such or similar category above the cost of production to base foreign market value on home market sales.

We calculated foreign market value based on delivered prices to unrelated customers in the home market. We created a new concordance based on the above-cost home market sales and the products as imported, according to the procedure outlined in the original questionnaire. To determine the actual gross home market price, we added credit revenue, where appropriate. We made deductions from the home market price, where appropriate, for inland freight and insurance. We added U.S. packing to the home market price, in accordance with section 773(a)(1) of the Act. No packing costs were claimed on home market sales. We made adjustments to the home market price to account for differences in the physical

characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

For comparisons involving purchase price sales, we made adjustments to the home market price, where appropriate, for differences in credit expenses, technical services, warranties, advertising, service payments to dealers, and commissions, pursuant to 19 CFR 353.15. For comparisons involving ESP transactions, we made further deductions from the home market price, where appropriate, for credit expenses, warranties, and technical services; and we made an adjustment to the home market price for indirect selling expenses, in accordance with 19 CFR 353.15(c).

For installment sales in the home market, the selling price was based on the total payments received, which included both principal and interest revenue. Credit expense was calculated based on the declining balance of both principal and interest. For installment sales with a payment period of 12 months or more, we used a compound interest rate in the credit expense calculation. For purchase price sales to a trading company on which Komatsu charged interest for late payment, we calculated credit expense from the date the forklift left the factory to the date payment was received. For purchase price sales on which no interest was charged, we calculated credit expense from the date of export at the f.o.b. point to the date payment was received.

Komatsu claimed home market expenses incurred in preparing forklifts prior to delivery as a direct selling expense. At verification, we learned that this expense included charges which relate to options and attachments costs. We requested that Komatsu report these expenses separately as options, rather than including them as pre-delivery expenses. In its revised response, Komatsu reported additional costs under options and attachments but did not provide an explanation of these adjustments, as requested at verification. Furthermore, we were unable to reconcile the reallocations in the revised response to the response which was used at verification. Therefore, we have disallowed this adjustment for purposes of this determination.

We added inventory carrying costs to the total indirect selling expenses on purchase price sales as an offset to home market commissions, pursuant to § 353.15(c). Komatsu reported inventory carrying costs on purchase price sales based on average days in inventory and average inventory values. For this determination, we recalculated these costs based on the cost of manufacture of the product as imported and the home market short-term borrowing rate. We used 15 days for the period from production to export, based on petitioners' experience.

In addition, Komatsu claimed a level of trade adjustment to compensate for alleged differences in levels of trade existing between the U.S. and home markets in sales of forklifts.

Pursuant to 19 CFR 353.19, we disallowed this adjustment because Komatsu did not establish that it experienced actual differences in selling costs associated with sales at different levels of trade in the home market. (*See* Comment 86 below.)

D. *Sanki:* We used constructed value as the basis for calculating foreign market value because we determined that there were no sales by Sanki of new forklifts in the home market. Constructed value was calculated in accordance with section 773(e) of the Act. Given that Sanki is a reseller of forklifts, we considered the cost of manufacturing to be equal to Sanki's acquisition cost of the forklift. Because Sanki did not report SG&A or profit, we used the statutory minima of ten and eight percent, respectively, in accordance with section 773(e)(1)(B)(i) of the Act.

Currency Conversion

For comparisons involving purchase price transactions, we made currency conversions in accordance with 10 CFR 353.56(a)(1). For comparisons involving ESP transactions, we used the official exchange rates in effect on the dates of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Critical Circumstances

Under section 635(a)(3) of the Act, critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A) (i) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

The purpose of a critical circumstances finding is to deter foreign manufacturers from increasing levels of imports sold at less than fair value prior to the suspension of liquidation. Pursuant to section 737(a)(3)(B) of the Act, we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by imports.

We have in the past determined whether imports have been massive by examining the Department's import data. However, because the Department's import data on forklifts includes within the same TSUSA categories products not covered by the scope of this investigation, we determined in this case that company-specific data on shipments of the products under investigation were the most appropriate on which to base our determinations of critical circumstances. Furthermore, we believe that company-specific critical circumstances determinations better fulfill the objective of the critical circumstances provisions of deterring specific companies that may try to massively increase imports prior to the suspension of liquidation. Based on our analysis of the verified shipment data of the individual respondent manufacturers, including Sumitomo and TCM, we have found that there is a reasonable basis to believe or suspect that imports of forklifts from Nissan and TCM have been massive over a relatively short period. Therefore, we find that the requirements of section 735(a)(3)(B) are met with respect to imports of forklifts by these two companies.

Pursuant to section 735(a)(3)(A)(i) of the Act, we have examined recent antidumping duty cases and found that, as of the date of filing of the petition in this investigation, there were no findings in the United States or elsewhere involving the dumping of forklifts by Japanese manufacturers, producers, or exporters. In accordance with section 733(e)(1)(A)(ii) of the Act, it is our standard practice to impute knowledge of dumping when the estimated margins in our determination are of such a magnitude that the importer should realize that dumping exists with regard to the subject merchandise. Normally, we consider estimated margins of 25 percent or greater to be sufficient (*See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Italy* (52 FR 24198, June 29, 1987)). However, in cases where

the foreign manfuacturer sells in the United States through a related company, we consider that lower margins may be sufficient. Since Nissan and TCM sell in the United States through related companies, we find that the requirements of section 733(e)(1)(A) are met for these companies. Therefore, we determine that critical circumstances exist with respect to imports of forklifts by Nissan and TCM.

We have based the determination of critical circumstances with respect to imports of forklifts by Sanki, Kasagi, and "all others" on the total verified shipment data of the respondent manufacturers. Because these manufacturers account for over 80 percent of all shipments of forklifts to the United States in 1987, we believe these to be the most accurate data available to the Department. Based on our analysis of total shipments of these five manufacturers, we have determined that imports have not been massive over a relatively short period of time; and, therefore, critical circumstances do not exist with respect to imports of forklifts by Sanki, Kasagi, and "all others".

Verification

Except where noted, we verified the information used in making our final determination in accordance with section 776(a) of the Act. Department officials spent approximately seven weeks both in Japan and the United States verifying the responses submitted. We used standard verification procedures including examination of relevant accounting records and original source documents of the respondents. Our verification results are outlined in detail in the public versions of the verification reports which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Interested Party Comments

Comment 1: Petitioners contend that the respondents in this investigation submitted revised information after verification which changes significantly the information previously submitted, and that it is inappropriate for the Department to accept such information because it was not verified. Petitioners state that the purpose of verification is for the Department to confirm the accuracy of the questionnaire response; it is not an opportunity for respondents to correct significant mistakes and revise methodologies used in their responses. Petitioners argue, therefore, that in the absence of verified information, the Department should use best information available.

Petitioners also contend that the reported difference in merchandise adjustments and cost of production information submitted by respondents does not reconcile with their sales information. Therefore, the Department should reject respondents' information or, at a minimum, use the information that is least beneficial to respondents in analyzing the difference in merchandise adjustments, cost of production data, and the selling expenses claimed.

DOC Position: Except where noted, the information used in this determination has been verified. Where there were minor errors found during verification on certain charges or adjustments, we verified the corrected information and instructed respondents to submit revised responses containing the verified information. For charges or adjustments which we were unable to verify, and where information in the cost response and in the sales response could not be reconciled, we used best information available. Where we were unable to verify substantial portions of the response, as in the case of Sumitomo, or where we made a determination not to verify a response due to its untimely submission, which prevented us from analyzing and verifying it in a mannner consistent with our statutory obligations, as in the cases of TCM and Kasagi, we disregarded the entire response and used best information available.

Comment 2: Petitioners contend that Toyota's responses have been untimely and have contained substantial revisions and discrepancies, and unexplained price variations on home market related-party sales. Toyota also failed to submit accurate information until after verification on the characteristics of the products as imported, and that the changes in this data resulted in changes in Toyota's difference in merchandise claims and in its U.S. value-added data. Because the changed data were not submitted until after verification, they could not have been verified by the Department. Petitioners further argue that, just as TCM's failure to submit proper information on a timely basis resulted in the Department's rejection of its data, the Department should also reject Toyota's response and rely on best information available for the final determination.

Toyota contends that all of the variable cost figures for its difference in merchandise adjustments have been properly reported and verified. Therefore, Toyota maintains that the Department should make its final determination based upon the verified data submitted and reject petitioners' request that best information be used.

DOC Position: We verified the information submitted by Toyota which was used in this determination, including the changes to the characteristics of the product as imported and the difference in merchandise and value-added information. Unlike TCM and Sumitomo, these changes affected only a small percentage of Toyota's U.S. sales, while the changes that would have been required of TCM and Sumitomo would have affected over 50 percent of their U.S. sales. As such, Toyota's changes were not so extensive as to constitute a new response submitted after the preliminary determination.

Comment 3: Petitioners contend that the Department should reject Nissans's response and use best information available for purposes of the final determination because (1) Nissan's responses have been untimely, replete with errors, and are unreliable; and (2) Nissan failed to provide home market matches for certain of its U.S. sales.

Nissan contends that errors are inevitable in a case of this magnitude and complexity, that it has corrected its data when necessary, and that there is no basis for rejecting its response. Nissan argues that it did not provide model comparisons for two categories of U.S. sales based upon approval from the Department.

DOC Position: Except in the instances noted above, all information submitted by Nissan and used in our final determination has been verified. For charges and adjustments which we were unable to verify, we used best information available, as explained in the "Foreign Market Value" and "United States Price" sections of this notice. In addition, in accordance with our instructions, Nissan was not required to provide home market product comparisons for certain U.S. sales because the number of such sales was insignificant. We did not include these sales in our price-to price calculations. For other U.S. sales for which Nissan did not provide cost of manufacture data, we used the cost of manufacture data provided by Nissan for similar models.

Comment 4: Petitioners contend that Komatsu's cost of manufacture data and its direct and indirect selling expenses as reported in the cost of production and constructed value responses are inconsistent with the data and expenses reported in its home market sales response. Petitioners also contend that the cost data in Komatsu's cost of production response do not reconcile

with the cost data in its product concordance. Therefore, the Department should reject all of Komatsu's data for purposes of the final determination and use as best information available the highest margin alleged in the petition or the highest margin found for another respondent, whichever is greater.

Komatsu contends that, as the verification reports show, its data have been verified in all material respects and constitute a reliable basis for the Department's final determination.

DOC Position: We used verified cost of manufacture data as reported in the cost of production response and verified selling expenses as reported in the sales response for purposes of this determination.

Comment 5: Petitioners contend that, because TCM failed to supply adequate information, for the final determination the Department should use as best information available the highest margin alleged in the petition of 56.81 percent or the highest margin found for another respondent, whichever is greater.

TCM contends that the revisions incorporated in its submission of January 8, 1988 are not so extensive as to constitute a "new response" or to justify the Department's refusal to verify its data. TCM argues that all other companies subject to this investigation apparently discovered, just prior to or during the course of verification, errors in their data that seem to be at least as substantial as the revisions contained in TCM's submission. TCM contends that the Department erred in refusing to verify the data submitted in response to the Department's questionnaires. TCM also argues that the only difference between the positions of the other companies and TCM is one of timing.

TCM further contends that the Department should not determine a dumping margin for TCM based on best information available but should apply the "all others" rate to TCM in the final determination because (1) the Department should have verified TCM's data and (2) TCM has cooperated with the Department in a complex investigation in which mistakes are inevitable. Citing recent antidumping determinations, TCM contends that, if the Department determines that it must apply a rate adverse to TCM, it should apply the average of the TCM rates alleged in the petition.

DOC Position: In accordance with section 776(b) of the Act, we have used the highest company rate calculated in this investigation as best information available for TCM.

We disagree with TCM's contention that the correction of the errors discovered in its response would not have required the submission of a "new" response. As stated in TCM's letter of December 8, 1987, the errors in the company's response affected over 50 percent of its reported U.S. sales. In a meeting with Department officials on December 17, 1987, TCM stated that to correct the errors in its submission would require the filing of "new" responses. Further, in that meeting and in a letter dated December 22, 1987, TCM informed the Department that these errors affected not only the characteristics of the imported products, but also: (1) The product matches in the home market; (2) the difference in merchandise claims; and (3) the amounts reported for U.S. value-added. On December 31, 1987, the Department issued a letter to TCM stating that a response correcting errors of this magnitude would constitute a new repsonse. Therefore, such a response would not be accepted because it would be received after the preliminary determination and would not allow the Department sufficient time to analyze the information. Consequently, verification was not conducted.

We also disagree with TCM's contention that it has been treated differently than other respondents in this investigation. Kasagi's response was submitted after the preliminary determination and was not verified or used for purposes of this determination. We found at verification that Sumitomo's response was also replete with errors of a magnitude similar to the errors in TCM's response. Accordingly, we disregarded Sumitomo's reponse. In both cases, we have used best information available for this determination.

In accordance with section 776(b) of the Act, the Department may determine on a case-by-case basis what is best information available. In this case, we believe it is inappropriate to assign a rate to TCM that is lower than the rate calculated for another company on the basis of a complete and verified response. Accordingly, we do not agree with TCM that the most appropriate rate is the average TCM rate alleged in the petition. For reasons already discussed, we have determind that the highest company rate calculated in this investigation, and not the highest rate alleged in the petition, is most appropriate for TCM. We note that the rate used as best information available in this determination is not significantly higher than TCM's preliminary margin which was based on TCM's own information.

Comment 6: TCM argues that the Department refused to verify its data because of revisions necessitated by the Department's position that, when there is further manufacture or assembly in the United States, the physical characteristics of the forklifts as imported should be reported. TCM contends that this methodology is contrary to law and that TCM's methodology of starting with the sale to the first unrelated party and then deducting, among other things, U.S. value-added is the methodology required by the statute. TCM argues that the Department cannot justify its decision not to verify TCM's data on the grounds that TCM failed to comply with a methodology that contravenes the antidumping law.

DOC Position: The Department used the characteristics of the merchandise *as imported* into the United States for comparison with home market transactions based on section 772(e)(3) of the Act, 19 CFR 353.30(e), and past case precedent *(see Color Picture Tubes from Japan; Final Determination of Sales at Less Than Fair Value,* (52 FR 44171, November 18, 1987), *Erasable Programmable Read Only Memories (EPROM's) from Japan; Final Determination of Sales at Less Than Fair Value,* (50 FR 39680, October 30, 1986), and *Cellular Mobile Telephones and Subassemblies from Japan; Final Determination of Sales at Less Than Fair Value,* (50 FR 45477, October 31, 1985)).

Our initial questionnaire stated that the product characteristics reported should be those of the merchandise as exported to the United States. Further, section 773(a)(1) of the Act concerns the foreign market value of the *imported merchandise.* The requirement to report the characteristics of the imported product was reiterated in several subsequent discussions with TCM until the date of our preliminary determination. Further, in a letter dated October 26, 1987, we notified TCM of our specific instructions as to how it should report value-added data in order to report the product as imported. TCM repeatedly assured the Department that is data had been reported in the manner requested. At no time prior to discovery of the reporting error did TCM express disagreement with the Department's stated methodology. TCM formally raised its objection for the first time in a letter of December 22, 1987, more than one month after the preliminary determination and less than three weeks prior to the scheduled beginning of verification. We consider TCM's objection to the basic premise of our methodology six months after issuance of our questionnaire to be untimely and without merit.

Comment 7: TCM contends that, unless the methodology it employed is contrary to law, the Department erred in its refusal to verify TCM's data. TCM argues that its methodology is reasonable, yields an accurate calculation of TCM's dumping margin, and should have been accepted by the Department.

DOC Position: We disagree. *See* DOC Positions to Comment 5 and Comment 6.

Comment 8: Petitioners contend that the information supplied by Sumitomo on home market sales, U.S. sales, cost of production, and U.S. value-added was erroneous and unsupported at verification. Specifically, petitioners argue that the Department should reject all of the information submitted by Sumitomo because: (1) Sumitomo's home market sales information contained numerous significant errors and, therefore, was not verified by the Department; (2) Sumitomo completely revised its response on purchase price sales due to the number of errors and discrepancies found on verification; (3) Sumitomo's ESP response was replete with significant errors and unsupported calculations and allocations of charges and adjustments; (4) the selling expenses claimed by Sumitomo in its constructed value response did not correlate with selling expenses reported in its home market sales response; (5) the total cost of manufacture provided in Sumitomo's cost of production reponse did not reconcile with the total cost of manufacture on which the difference in merchandise adjustment is based; (6) Sumitomo understated its manufacturing costs by applying fiscal year variances to adjust standard costs rather than applying the variances that occurred during the period of investigation; (7) Sumitomo omitted a number of costs from its constructed value data, such as the cost of services provided by parent companies; (8) Sumitomo failed to document that its purchases from related suppliers were at arm's-length prices or that these purchases were reported at a fully absorbed cost of production; and (9) Sumitomo understated its material costs and general expenses in its cost of production information. Furthermore, petitioners believe that the information submitted by Sumitomo after verification has not been verified by the Department. For these reasons, petitioners contend that the Department should use as best information available for Sumitomo the greater of the highest margin found for another respondent or the highest margin alleged in the petition.

Sumitomo contends that the Department should use the revised data submitted for the final determination because: (1) Sumitomo demonstrated good faith by voluntarily and thoroughly disclosing all changes to the Department; (2) many of the changes were insignificant, affected only a minority of data columns, or were driven by other changes; (3) the errors and omissions in the responses were both favorable and unfavorable to Sumitomo; (4) many of the revisions were the result of the extraordinary complexity of the investigation; (5) the Department will not be burdened by accepting the revised data; and (6) even if the Department chose to characterize the revised data as unverified, the revised data is the best information available.

With respect to petitioners' specific arguments that Sumitomo's cost of production response does not reconcile with its sales response, Sumitomo contends that: (1) it cannot determine how petitioners derived the figures cited in their examples of claimed discrepancies or how the comparisons were selected; (2) the variation between the cost and sales data is attributable to the permissible apportioning of direct and indirect selling expenses to the chassis and the completed forklift; (3) petitioners must apply the cost variance to the figures in their examples and take into account the fact that direct labor and factory overhead were not allocated back to each component part in the costs; and (4) where changes in the post-verification sales response affected the cost data, those changes must be taken into account in petitioners' calculations. Furthermore, Sumitomo disagrees with petitioners' contention that the cost variance during the period of investigation should be applied to standard costs to determine actual costs. Sumitomo maintains that the actual cost variance for the year should be used.

DOC Position: In accordance with section 776(b) of the Act, we have used the highest company rate calculated in this investigation as best information available for Sumitomo.

It is not uncommon to find minor methodological problems and mathematical errors during verification. However, during our attempted verification of Sumitomo's sales and cost of production responses, we found that the scope of the discrepancies, inconsistencies, unreported expenses and costs, methodological and mathematical errors, and information that could not be supported by the company's sales and accounting records was so extensive as to require completely new responses which at that stage of this complex proceeding could not be subjected to satisfactory analysis or verification. In addition, we discovered that for a substantial percentage of its U.S. sales, Sumitomo reported the characteristics of the product as ultimately sold in the United States instead of as imported.

Faced with responses containing numerous fundamental flaws, the Department could not properly base its determination on the information submitted by Sumitomo. Nor is it acceptable, in such situations, that the Department bear the responsibility of attempting to identify and perform numerous and substantial recalculations necessary for the development of accurate sales and cost of production data. Such a role would place too great a burden on the resources of the Department under the time constraints and procedural framework of this investigation. As stated in *Photo Albums and Filler Pages from Korea; Final Determination of Sales at Less Than Fair Value* (50 FR 43754, October 29, 1985): "[I]t is the obligation of respondents to provide an accurate and complete response prior to verification so that the Department may have the opportunity to fully analyze the information and other parties are able to review and comment on it." A respondent cannot shift this burden to the Department by submitting incomplete and inaccurate information and expect the Department to correct its response during the course of verification. Verification is intended to establish the accuracy of a response rather than to reconstruct the information to fit the requirements of the Department or to perform the recalculations necessary to develop accurate information.

Similarly, the Department rejected TCM's responses and did not conduct verification of that company because TCM informed the Department after the preliminary determination that, for a substantial percentage of its U.S. sales, the characteristics reported were those of the product sold in the United States, rather than those of the product imported into the United States (*see* Comment 5 above). After careful consideration, the Department determined that the extent of the revisions required to correct TCM's responses were of such a magnitude as to constitute a completely new response submitted too late in the investigatory process. In addition to the fundamental errors in Sumitomo's sales and cost of production responses mentioned above,

we also found at verification that a substantial percentage of its U.S. sales reported the characteristics of the product ultimately sold in the United States, as opposed to the product imported.

Further, with respect to the cost data, the Department requested the actual cost of production of the forklifts sold during the period of investigation. However, during verification, we found that Sumitomo did not report actual costs. For the chassis, Sumitomo reported a "construct" based on 1987 costs. For the value added in the United States, Sumitomo reported standard costs and included the transfer prices of masts produced by a related supplier. In addition, the costs for certain services provided by Sumitomo Heavy Industries, a parent company of Sumitomo, and certain research and development costs were not included in the cost of the chassis. For the further manufacturing in the United States, Sumitomo failed to report shrinkage, scrap, obsolescence, losses on revaluation, and costs of counterweights (a significant forklift component) in the cost of production. Furthermore, Sumitomo used a favorable annual cost variance which resulted in lower costs instead of the appropriate six-month variance pertaining to the period of investigation which would have reflected higher costs.

For all of the reasons described above, we have determined that rejection of Sumitomo's responses and use of best information available is appropriate for this determination. Furthermore, because we have used best information available with respect to Sumitomo, petitioners' and respondent's comments pertaining to specific charges, adjustments, and other issues are moot. For reasons already discussed, we have determined that the highest company rate calculated in this investigation, and not the highest rate alleged in the petition, is most appropriate for Sumitomo.

Comment 9: Petitioners contend that demonstration forklifts sold in the home market are not similar to the merchandise under investigation, nor are thay sold in the ordinary course of trade. Therefore, they should not be compared with new forklifts sold in the United States. Petitioners further contend that discounts or other expenses claimed on demonstration forklifts apply only to sales of demonstration forklifts and are not expenses incurred by respondents in selling new forklifts. Therefore, such home market expenses and discounts claimed by Toyota, Nissan, and Komatsu should be disallowed.

DOC Position: We agree that demonstration forklifts are not appropriate comparisons for sales of new forklifts. However, we believe that expenses incurred by respondents on the demonstration vehicles are a direct advertising expense and have treated them as such for Toyota and Nissan. We have disallowed such expenses for Komatsu since we have determined that Komatsu and its dealers are related and, as such, the expenses claimed by Komatsu are intracompany transfers of funds.

Comment 10: Petitioners contend that the demonstration or damaged forklifts imported into the United States by Toyota and Nissasn and sold to unrelated parties during the period of investigation should be included in the Department's calculation of dumping margins. Petitioners further argue that all sales that involved a transfer of title during the review period are subject to analysis and cite *Television Receiving Sets, Monochrome and Color, from Japan; Final Results of Administrative Review of Antidumping Finding* (46 FR 30163, June 5, 1981) and *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review* (53 FR 4050, February 11, 1988). They assert that the requirement that the Department determine the price of such or similar merchandise sold in the ordinary course of trade pertains only to sales used to establish foreign market value. There is no such requirement for determining U.S. sales subject to investigation.

With respect to Toyota, petitioners argue that it is unclear whether the forklifts listed by Toyota are actually damaged or demonstration units. Therefore, these U.S. sales should be used to calculate the extent to which Toyota is selling at less than fair value.

With respect to Nissan, petitioners contend that all of its sales of demonstration vehicles in the United States should be included in the Department's calculation of dumping margins, and that the amount of the discount for each of these forklifts should be changed from the amount originally reported to the actual verified amount.

Toyota contends that sales of demonstration forklifts are not similar to the products under investigation and should not be included in the U.S. sales transactions examined.

Nissan contends that the Department's determinations cited by petitioners with respect to the inclusion of demonstration models are not dispositive because they involve administrative reviews, not original antidumping duty investigations. Nissan argues that, while a margin must be calculated for every entry covered by an administrative review, the Department's regulations do not require calculation of a margin for every sale taking place during the period of investigation.

DOC Position: Since the damaged and demonstration vehicles sold in the United States are sold as used forklifts which are not subject to this investigation, we have not included these sales in our calculations.

Comment 11: Petitioners contend that, to the extent that any respondent has not provided specific rebate or discount information on a sale-by-sale basis and have not demonstrated that these rebates or discounts were actually provided during the period of investigation, discounts or rebates should not be allowed.

DOC Position: Discounts and rebates are by definition tied to specific sales. Where respondents have not been able to tie them to specific sales, we have disallowed them. Some rebate or inventive programs offered by respondents, such as a rebate provided to dealers that meet a monthly sales target, have been allowed since they have been tied to sales made within a particular month. Rebates do not have to be paid during the period of investigation, but they must be tied to sales made during that period.

Comment 12: Petitioners contend that the credit calculation on installment sales in the home market must take into account the gradual reduction of the outstanding balance and the amount of interest earned by the respondent. If respondents have not provided, and the Department has not verified, the amount and date of each payment by the purchaser and the interest rate charged on each installment sale, no deduction for credit expenses on any installment sale should be allowed. In addition, if a respondent failed to identify its installment sales during the period of investigation, no credit expense adjustment should be allowed.

DOC Position: The required information was verified and used to calculate credit expenses for installment sales in the home market for purposes of this determintion. Credit expenses were calculated based on the outstanding balance plus interest revenue for each month. For installment sales of 12 months or more, we used a compound interest rate.

Comment 13: Petitioners contend that any home market warranty expense

claimed must be based on variable, rather than fixed, expenses. Petitioners also argue that any claim for expenses associated with warranty repair parts should be stated as the cost of such parts, rather than the sales or list price.

DOC Position: For Nissan and Toyota, warranty expense payments are made between unrelated parties. As such, we have deducted the full payment amount since this is a variable expense to the manufacturer. For Komatsu, since related dealers performed the warranty work, we have allowed only the variable warranty expenses as an appropriate deduction from the home market price.

Comment 14: Petitioners contend that the Department considers commissions paid to related parties to be intracompany transfers of funds which are not expenses to the corporate entity. Therefore, such payments should be disallowed as adjustments to foreign market value. In support of this argument, petitioners cite *Anhydrous Sodium Metasilicate from France; Final Results of Administrative Review of Antidumping Duty Order* (49 FR 43733, October 31, 1984).

With respect to Nissan, petitioners contend that certain commissions claimed by Nissan on home market sales were paid to related parties and, therefore, constitute intracompany transfers of funds. Petitioners also argue that other commissions claimed by Nissan were earned on sales made prior to the review period of investigation and, therefore, should be disallowed by the Department.

Nissan contends that home market sales commissions paid to employees were shown at verification to be directly related to specific sales and should be allowed as circumstance of sale adjustments. Nissan also argues that commissions on sales made prior to the period of investigation were not included in the database and were not claimed as a deduction from the home market price.

DOC Position: Nissan claimed payments to employees as commissions on the home market sales. Since these expenditures were made to individual employees, we do not consider them to be intracompany transfers of funds. However, Nissan did not tie these payments to individual sales. Therefore, we treated these payments as an indirect selling expense.

Comment 15: Petitioners contend that in the preliminary determination the Department failed to follow the two-step ESP cap procedure used in the *Preliminary Determination of Sales at Less Than Fair Value; Brass Sheet and Strip from the Netherlands* (*Brass Sheet*) (53 FR 3612, February 8, 1988). They argue that the aggregate home market indirect selling expenses should first be capped at the level of aggregate U.S. indirect selling expenses and then, on an individual sale basis, home market indirect selling expenses should be capped at the level of the indirect selling expenses claimed on an individual U.S. sale. This two-step approach ensures that home market indirect selling expenses are equivalent to those claimed in the United States, regardless of whether there are significant differences in the number of sales in the U.S. and home markets. Petitioners maintain that the Federal Circuit's decision in *Consumer Products Division, SCM Corp.* v. *Silver Reed America, Inc.*, 753 F.2d 1033 (Fed. Cir. 1985) upholds the Department's regulations requiring that home market indirect selling expenses be capped at the amount of indirect selling expenses in the United States.

Petitioners further argue that the Department should disallow home market G&A expenses as part of the ESP offset and only allow indirect selling expenses claimed in the home market for sales made in the home market.

Nissan contends that it is difficult to comment on petitioners' proposed two-step cap on indirect selling expenses in the home market since the only discussion of this approach seems to have been in a private disclosure conference, but argues that the approach appears inconsistent with the statute and prior Department paractice.

Toyota contends that petitioners' request that the Department apply a two-step procedure in calculating the ESP cap is incorrect, unnecessary, and not required by the statute, nor is it consistent with prior Department practice.

DOC Position: Pursuant to 19 CFR 353.15(c), in making ESP comparisons, the Department is required to make "reasonable allowance . . . for all actual selling expenses incurred in the home market up to the amount of the selling expenses incurred in the United States market." As petitioners recognized at the hearing in this investigation, the two-step ESP cap procedure used in the preliminary determination in *Brass Sheet* is not the method we have employed in the past. Furthermore, we do not regard it as the appropriate method to use since adjustments are made on a sale-by-sale basis.

Capping on an aggregate basis would not reflect the individual circumstances of each sale, and may lead to adjustments distorted by the comparative size of each market. Thus, we continue to use our standard policy of capping home market indirect selling expenses on a sale-by-sale basis, as described in the Department's 1985 Adjustments Study.

Accordingly, we have subtracted from the home market price the amount of any indirect selling expenses allocated to the home market sale up to the amount of indirect selling expenses allocated to the U.S. sale.

Comment 16: Petitioners contend that, because specific home market sales are being compared to specific U.S. sales, no sale that is below cost of production should be compared with a U.S. sale, even if the total number of sales below cost is less than ten percent.

DOC Position: This issue is moot. For both Nissan and Komatsu, below-cost sales were more than ten percent in each such or similar category. As such, no below-cost sales were used in our comparisons.

Comment 17: Petitioners contend that, absent proper explanation by Komatsu, Nissan, or Toyota, the Department should deduct the full amount of the cash or prompt payment discount on any U.S. sale where the payment period would entitle the purchaser to such a discount.

Toyota contends that all of Toyota's discounts and net selling expenses are verified and that there is no basis for imputing any additional discount on U.S. sales.

DOC Position: We have verified that all prompt payment discounts have been reported by respondents or have already been deducted from the sales prices reported in the responses.

Comment 18: Petitioners contend that respondents should have provided all information relating to freight allowances or freight equalization payments. This is a practice in the industry whereby, if a unit is not available for purchase at a particular distribution center, a respondent will bill its customer for the normal cost of freight despite additional freight costs that have been incurred in shipping the unit from an alternative distribution site. The Department should take this cost into account if it has not been reflected in respondents' freight claim. In the absence of information concerning the freight absorption or equalization, the Department should take the freight expense reported in the financial statements of the U.S. subsidiary, deduct the total U.S. freight expense incurred by the U.S. subsidiary as claimed in the response, deduct a portion of the freight expense allocable to sales of products other than those subject to investigation, and allocate the remaining portion of the freight expense

to individual sales as a proxy for these excess freight costs.

DOC Position: We have verified all freight expenses applicable to the subject merchandise and have deducted those expenses from the sales price.

Comment 19: Petitioners contend that any costs assumed by a parent company on behalf of its U.S. subsidiary for U.S. sales (*e.g.*, advertising brochures printed in Japan for promoting U.S. sales or product liability insurance premiums to cover claims in the United States) should be considered a direct selling expense and deducted from U.S. price in the final determination.

DOC Position: We disagree in part. Using our standard criteria, we consider product liability insurance premiums paid by a parent company to be indirect selling expenses. We agree that advertising expenses for brochures printed in Japan for promotion of U.S. sales are direct selling expenses.

Comment 20: Petitioners contend that the expenses incurred by parent companies on behalf of their U.S. subsidiaries for certain types of services (*e.g.*, setting up accounting systems, conducting internal audits, providing computer services, assisting in marketing programs, conducting time studies by industrial engineers, and incurring research and development cost) should be included as U.S. indirect selling expenses. In addition, any selling expenses incurred by the parent company on behalf of the U.S. subsidiary which are part of the parent company's G&A expenses should be part of the ESP cap. The Department's allocation of these expenses should be based on the cost of goods sold.

DOC Position: We disagree. The expenses identified above by petitioners are general expenses of the parent company incurred in Japan; they do not constitute U.S. indirect selling expenses.

Comment 21: Citing *Silver Reed America, Inc. et al.* v. *U.S.* (Slip Op. 88–5, January 12, 1988), Nissan, Toyota, and Komatsu contend that we should not deduct expenses incurred outside the United States with respect to ESP sales.

DOC Position: We disagree. The Court has reconsidered and reversed its position on this issue, holding that: "[A]n analysis of the entire statutory scheme for ESP adjustments in 1677a demonstrates that many preimportation expenses related to United States sales must be deducted from ESP." *Silver Reed America, Inc. et al.* v. *U.S.* (Slip Op. 88–37, March 18, 1988). The Court went on to note that, if the Department did not deduct preimportation expenses from ESP, "the essential price comparison to determine the margin of dumping, if any, becomes distorted and contrary to the purpose of the dumping law to achieve a fair price comparison." Accordingly, where expenses were incurred outside the United States on ESP sales, we have taken them into account in this determination.

Comment 22: Petitioners contend that, for those companies that did not segregate technical service expenses on U.S. sales, but claimed them as an indirect selling expense, the Department should treat all technical service expenses as directly related to the sales under investigation and make the appropriate deduction from U.S. price.

With respect to Toyota, petitioners argue that the Department should use the amount of Toyota's technical service expenses in the home market as a proxy for those expenses in the United States and treat them as a direct selling expense.

Toyota contends that its U.S. technical service expenses are not variable expenses separately traceable to individual transactions and, therefore, are properly included among indirect selling expenses.

DOC Position: For Toyota, we found that the technical services provided to U.S. dealers are of a routine nature and would have been incurred whether or not a particular sale had been made. Therefore, we have treated these expenses as indirect selling expenses. For Komatsu, we have determined that the only direct technical service expenses are travel expenses incurred in servicing specific sales. The other claimed technical service expenses have been treated as indirect selling expenses. For Nissan, we found that the company had underreported its expenses. We used the correct verified amounts in this final determination. We treated Nissan's travel expense as direct and all other expenses incurred in providing technical services as indirect since they are expenses of a routine nature that would have been incurred whether or not a particular sale had been made.

Comment 23: Petitioners contend that it is the Department's practice to allow technical service adjustments to home market price only for expenses that are incurred during the period of investigation and that are directly related to the sales made during the period of investigation. In support of their position, petitioners cite the *Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan* (52 FR 30700, August 17, 1987) and the *Final Determination of Sales at Less Than Fair Value: Certain Forged Steel Crankshafts from the Federal Republic of Germany* (52 FR 28170, July 28, 1987). Petitioners further argue that valid technical service expenses do not include salaries for technical engineers or other personnel which would have been paid regardless of the amount of work performed. In support of this contention, petitioners cite *Dry Cleaning Machinery from West Germany; Final Results of Administrative Review of Antidumping Finding* (50 FR 32154, August 8, 1985) and *Certain Welded Carbon Steel Standard Pipe and Tube from India; Final Determination of Sales at Less Than Fair Value* (51 FR 9089, March 17, 1986). Petitioners contend that, for the most part, the technical service expenses claimed by respondents in this investigation are incurred on routine visits to customers in an effort to maintain general corporate goodwill and, therefore, should not be allowed by the Department as a direct selling expense. At most, they should be treated as an indirect selling expense.

With respect to Nissan, petitioners contend that its technical service expenses include salaries, wages, and bonuses and, therefore, should be treated as indirect selling expenses for purposes of the final determination.

With respect to Komatsu, petitioners contend that its technical service expenses are comprised of fixed salary and transportation expenses incurred for routine inspection visits which do not constitute direct selling expenses and, therefore, should not be deducted from home market price.

Komatsu contends that its claimed adjustment for home market technical service visits are out-of-pocket expenses directly tied to the specific sales in question. Komatsu argues that while these calls are routine, petitioners have cited no support for their statement that technical service adjustments can be made only where it is shown that an engineer has visited a customer that is having a specific technical problem.

DOC Position: We have treated all of Toyota's claimed technical service expenses as indirect selling expenses because these are expenses of a routine nature that would have been incurred regardless of whether any particular sale had been made. For Nissan and Komatsu, we have also treated all of their technical expenses as indirect selling expenses, except for travel, for the same reason. We have determined that travel expenses borne by the two companies are appropriate technical service claims since the travel expenses are variable and are tied to specific sales made during the period of investigation.

Comment 24: Petitioners contend that the advertising expenses incurred on behalf of a particular model are direct expenses and should be deducted from home market price with respect to sales of that model. Expenses incurred for advertisements which feature products not subject to the investigation should not be considered as either a direct or an indirect selling expense. Separate expenses should have been submitted for the products under investigation and for the expenses incurred during the period of investigation.

DOC Position: Where advertising expenses could be segregated to particular models, this was done. Otherwise, they were allocated to the subject merchandise. During verification, we reviewed the allocation of advertising expenses to the subject merchandise. In those instances where advertising expenses could be segregated, we found they were properly allocated. We have disallowed advertising expenses related to non-forklift products and advertising expenses which were incurred outside the period of investigation.

Comment 25: Petitioners content that U.S. advertising expenses incurred by respondents under co-op advertising programs should be allocated on a customer-by-customer and model-by-model basis. Furthermore, petitioners argue that to the extent that other U.S. advertising expenses for products subject to this investigation have not been reported separately by the respondents on a model-by-model or series-by-series basis, the Department should treat all U.S. advertising expenses as direct selling expenses.

With respect to Toyota, petitioners contend that, in addition to the co-op advertising program, other advertising expenses were incurred which qualify as direct selling expenses on U.S. sales. In support of their contention, petitioners submitted sample advertisements published during the period of investigation which promote Toyota forklifts, are directed at end-users, and feature no particular Toyota dealer. Since Toyota failed to report fully its direct U.S. advertising expenses, the Department should treat the entire amont of these expenses as a direct selling expense on both ESP and purchase price sales.

In addition, petitioners contend that the Department should rectify the inconsistency in the preliminary determination of treating Toyota's advertisements directed at end-users in the home market as direct expenses while treating advertisements directed at end-users in the United States as indirect selling expenses.

With respect to Nissan, petitioners contend that the Department should use Nissan's actual advertising expenses incurred during the period of investigation. The Department should disregard Nissan's assertion that the advertising expenses associated with the introduction of new models were unusually high and that these expenses should be allocated over a five-year period. In addition, to the extent that such advertisements are directed at specific models, such advertising expenses should be allocated only to those specific models, not over all forklifts.

Nissan contends that, becaue its U.S. advertising expenses were unusually high during the period of investigation due to the recent introduction of two new models, the Department should use a five-year average for U.S. advertising expenses.

DOC Position: We found Toyota's allocation of co-op advertising to be reasonable. During verification, we found that certain advertising expenses were included in Toyota's claimed indirect selling expenses. A portion of those advertising expenses was directed to Toyota's dealers' customers. Therefore, we treated those expenses as direct selling expenses. At verification, we found that Komatsu also inappropriately reported certain advertising expenses as indirect. We have treated these expenses as direct selling expenses in this determination.

With respect to Nissan, we have examined the advertising expenses incurred during the period of investigation and in each of the four prior years. We saw no evidence that the period of investigation's expenses were unusually high when compared with fluctuations in previous years' expenses. As such, we have made an adjustment for actual advertising expenses incurred during the period of investigation.

Comment 26: Petitioners contend that none of the respondents have fully reported product liability expenses. Each company should have submitted not only the cost of insurance premiums but the amounts reserved for settlement costs and litigation fees. All liability expenses should be allocated only over forklift sales in the United States since liability claims arise primarily in the United States. To the extent that these costs have not been reported or verified, the Department should use the information in the petition as best information available for each respondent. The Department should also treat product liability expenses as a direct selling expense rather than an indirect selling expense because a company's expense increases with every forklift sold and claim made.

With respect to Nissan, petitioners contend that, since the Department was unable to verify Nissan's claimed product liability expense, the Department should use the information in the petition as best information otherwise available.

Toyota contends that all of its U.S. product liability expenses have been reported and verified, and that product liability insurance premiums are not variable expenses as petitioners claim. Toyota also argues that, because premiums paid during the period of investigation are paid to insure all Toyota forklifts presently in operation and not just those sold in the period of investigation, Toyota properly allocated ten years of premiums over sales for the same period.

DOC Position: We have treated product liability insurance premiums as indirect selling expenses since these expenses are fixed expenses and are not incurred with each sale made. We saw no evidence of reserves for settlements or litigation fees during the period of investigation for Toyota or Komatsu, and have verified all product liability insurance premiums for Toyota and Komatsu. We believe that Toyota properly allocated this expense over all North American sales since we verified that its product liability insurance covers all forklifts sold and in operation in the North American market.

For Nissan, we were unable to verify these expenses. Therefore, we based the amount used for purposes of this determination on the U.S. industry's product liability experience.

Comment 27: Petitioners contend that the Department should deduct from U.S. price all costs incurred in adding value to the forklifts, including labor and overhead, G&A expenses, and profit. Only by deducting all of the value added in the United States, including profit, will the Department be able to compare accurately the price of the "as imported" product with the price of the product with the same characteristics in the home market.

For options not attached, the Department should use the greater of the net selling price of the options or the acquisition cost plus profit to determine the value-added expense. With respect to installed options, the Department should use the greater of the net selling price or the acquisition cost plus labor, overhead, and profit to determine the value-added expense. With respect to options that have been added or removed, the Department should calculate U.S. value-added as the sum of

the acquisition cost of the parts added, plus labor, overhead, and profit on the parts added. The Department should calculate profit on sales in which items were removed or added based on the profit earned on the parts added, not on the difference between the cost of parts removed and added.

Nissan contends that the pre-sale activities performed by Nissan Industrial Equipment Corporation (NIEC) in the United Sates are not "a process of manufacture or assembly" within the meaning of section 772(e)(3) of the Act because they do not "significantly transform" the imported forklifts. Therefore, the Department should not deduct the profit associated with these activities from ESP. Nissan argues that the costs incurred in the United States for pre-sale activities should be treated as indirect selling expenses. Alternatively, Nissan contends that, if the Department determines that the operations performed by NIEC in the United States do constitute "manufacture or assembly" within the meaning of the statute, profit should be calculated based on the ratio of the cost of these operations to the total cost of the product. This ratio should then be applied to the difference between NIEC's selling price and the total cost of the forklift. In addition, Nissan argues that the Department should treat all options similarly, whether installed or not installed.

Toyota contends that the activities performed on imported forklifts at U.S. processing centers do not constitute manufacture or assembly within the meaning of section 772(e)(3) of the Act and 19 CFR 353.10(e)(3) and are incidental to the selling operations. Therefore, the Department should not deduct the value-added in the United States to arrive at ESP. Toyota argues that the manufacture and assembly process is concluded in Japan and that the following operations performed in the United States do not constitute manufacture or assembly: (1) Securing of certain options such as LPG tanks, sideshifters, and fork arms to the units for shipment to customers, (2) attachment of lights, alarms, and hydraulic valves, and (3) swapping of masts and forks.

DOC Position: We consider the pre-sale activities of Nissan and Toyota in the United States to constitute further manufacture or assembly within the meaning of section 772(e)(3) of the Act. We have calculated the value-added adjustment to the U.S. price as follows. For installed options, we have deducted the acquisition cost of the options, plus labor, overhead, and profit. With respect to options that have been switched, we have used the difference between the cost of manufacture of the parts switched, plus labor, overhead, and profit. For Nissan, we calculated profit for options installed and for parts switched based on the ratio of the cost of these operations to the total cost of the product. We then applied this ratio to the difference between the net selling price and the total cost of the forklift.

For Toyota, we calculated a net profit factor on forklift sales for Toyota Motor Sales (TMS), the U.S. subsidiary of Toyota, during the period of investigation. We then applied this factor to the transfer price between Toyota and TMS as best information available.

We do not consider unattached options to be value added. We deducted the sales price of the unattached options from U.S. price.

Comment 28: Petitioners contend that the cost of carrying inventories of parts and attachments should be included by the Department in each company's U.S. value-added expenses. The Department should calculate this expense based on the cost or price of the options or attachments that are added in the United States and the length of time the forklifts are held in inventory.

Petitioners also contend that all freight expenses associated with transporting the attachments and options to U.S. processing centers should be included by the Department as part of the U.S. value-added expense.

DOC Position: All expenses incurred by the U.S. subsidiary have been reported. Expenses such as the cost of carrying inventory and freight expenses related to transporting attachments and options have been reported either under inventory carrying costs or under indirect selling expenses. A portion of these expenses has been allocated to the value-added operations. Most of the items held in inventory, such as fork arms and masts, were imported attached to one forklift and then removed to be switched with items from another forklift. As such, the associated freight expenses were already included in the freight expense of the forklift as a direct selling expense.

Comment 29: Regarding critical circumstances, C. Itoh Industrial Machinery Inc. (CIM) and TCM America (MBK) Inc. (TAM), U.S. distributors related to TCM, contend that they would not have access to knowledge of less than fair value sales because their corporate relationship with the manufacturer, TCM, is insufficiently close. CIM and TAM argue that there is no evidence that they had access to information on TCM's pricing in the home market or to each other's pricing. CIM and TAM also argue that knowledge of less than fair value sales cannot be imputed to them because of the complexity and technical nature of the calculations necessary to make such a determination. They further argue that application of a 25 percent "rule" to impute knowledge of less than fair value sales constitutes informal rulemaking requiring notice and comment, and in support of their contention cite the Court of International Trade decision in *Carlisle Tire and Rubber Co. v. U.S.*, 7 ITRD 1512, 1515 (C.I.T., 1985) regarding an allegedly analogous Departmental guideline.

Machinery Distribution Inc. (MDI), an interested party, contends that overall imports have not been massive and that import levels in the months immediately preceding the filing of the petition are not the appropriate benchmark to use to evaluate post-filing import levels because (1) import levels are traditionally greater during the time of the year represented by the post-filing time period and (2) pre-filing time period import levels were unusually low.

DOC Position: While CIM and TAM contend that they had no knowledge of TCM's pricing policies, it is our longstanding practice to consider foreign manufacturers and their related U.S. importers to be a single entity. Given TCM's ownership interest in both CIM and TAM, we believe it is appropriate to apply our imputed knowledge methodology.

The Department is not required to follow formal rulemaking procedures in adopting every methodology it employs. Congress has afforded the Department wide latitude in its administration of the antidumping law. Furthermore, the courts have accorded deference to the Department in fulfilling its statutory duties and have recognized that the Department requires "methodological flexibility." *Ceramica Regiomontana v. United States*, (Slip Op. 86–58, May 29, 1986) at 12–13.

The position advocated by CIM and TAM would require the Department to promulgate every methodology that it proposed to follow in an administrative proceeding as a rule under the Administrative Procedure Act, 5 USC 551 *et seq.* Such an approach would require the Department to announce the methodology that it intends to apply in the **Federal Register**, request and evaluate comments, publish the final rule, and then wait 30 days for it to become effective. This approach could not be accomplished in the short time

Congress has mandated for the completion of an investigation and would permit no flexibility in subsequent administrative proceedings. If the rulemaking process were followed, the Department would be obligated to apply a "rule" once made. The agency could not consider other methodologies that might be more appropriate for the facts in that particular case unless it went through the rulemaking process again. Such a requirement would unduly restrict the ability of the Department to carry out the intent of Congress.

Having had the opportunity to comment on the Department's methodology, the parties have not provided any basis for the Department to alter its current practice.

The rationale behind a critical circumstances allegation is to prevent foreign manufacturers from increasing levels of imports of products sold at less than fair value prior to the suspension of liquidation. As such, contrary to MDI's contention, the most appropriate periods to measure import levels are those immediately preceding and following the filing of the petition, up to the time of the preliminary determination.

Finally, based on our analysis of import data, we have found no evidence of seasonality with respect to imports of forklifts from Japan.

Comment 30: Petitioners contend that, because Kasagi and Sanki failed to submit monthly import data, the Department should make a finding of critical circumstances with respect to these companies for purposes of the final determination.

DOC Position: We sought shipment data only from the manufacturers of forklifts, not from resellers. Because Sanki and Kasagi do not produce the subject merchandise, we believe it is appropriate that these companies receive the "all others" determination regarding critical circumstances (*see* "Critical Circumstances" section of this notice).

Comment 31: Petitioners contend that the Department should consider a forklift to be used if, at the time of entry into the United States, the importer can prove that the forklift was manufactured at least three years prior to the date of entry.

Mifran-Boman, an interested party, contends that any forklift older than one year should be considered to be used for purposes of this investigation and suggests using the serial numbers published by the manufacturers to make this determination.

Equipment Company of Los Angeles (ECOLA), an interested party, contends that the Department's presumption in the preliminary determination that only forklifts over three years old can be considered used is without support in the record, is illogical, and is not based on any industry standard, custom, or practice. ECOLA contends that there is no support in the record other than petitioners' assertions that new vehicles may remain in inventory for over a year or that new vehicles will be misclassified as used to avoid any potential dumping duties. ECOLA also argues that the Department has an obligation to investigate before making such a determination and may not rely on unsupported assertions in its determination of the age at which a forklift becomes used. As support, it cites *Cellular Mobile Telephones and Subassemblies from Japan; Final Determination of Sales at Less Than Fair Value* (50 FR 45447, October 31, 1985).

ECOLA also contends that the Department's three-year rule is harsh and unreasonable because it does not give importers the opportunity to demonstrate to U.S. Customs that individual entries under three years of age are used. ECOLA argues that the Department should establish a rebuttable presumption that any forklift manufactured at least one year prior to the date of entry should be considered used and, therefore, not subject to any duties imposed in this investigation.

DOC Position: Our investigation uncovered no evidence that Japanese producers and exporters of the subject merchandise have been involved in the practices alleged by petitioners of exporting essentially new forklifts to unauthorized dealers as used forklifts. In addition, verification of one reseller indicated that forklifts are being purchased through third parties without the direct knowledge of the manufacturers. We have found, however, that certain manufacturers' forklifts were imported as new more than one year after the forklifts' date of manufacture. While we recognize that high inventory carrying costs may be a disincentive to holding a forklift in inventory between one and three years in order to avoid the imposition of antidumping duties, we must be able to ensure that this determination can be enforced and that any potential order will not be circumvented.

As Mifran-Boman has suggested, in order to identify the age of a forklift, we will instruct the U.S. Customs Service to require documentation from industry publications containing information reconciling a forklift's serial number and date of manufacture. These industry publications, however, do not specify the exact date of manufacture, but only the year a forklift with a particular serial number was manufactured. As such, the U.S. Customs Service would not be able to determine the date a forklift was manufactured, but only the year it was manufactured.

To ensure that imports of new forklifts are covered by this determination, we have established the following cut-off for used forklifts. Given that the U.S. Customs Service can only determine the manufacture year of a forklift, we will instruct the U.S. Customs Service to consider as used any forklift produced in a calendar year at least three years prior to the year of entry into the United States. We have discussed this issue with the U.S. Customs Service and have concluded that our treatment of used forklifts is administratively feasible.

Comment 32: Petitioners contend that manufacturers and exporters of forklifts are planning to circumvent the imposition of antidumping duties on forklifts They state that the Department should clarify the scope of the investigation to include separately imported major component parts being shipped to the United States by Japanese forklift producers and exporters to be installed on Japanese-made frames or frames made principally from Japanese components.

Mitsubishi Heavy Industries (MHI), an interested party, contends that the petitioners have provided no basis for expanding the scope of the investigation. MHI also argues that the petitioners should not be permitted to amend the petition and expand the scope of this investigation because the request was not made until after verification. This request is unjustifiably late and deprives the Department of the opportunity to investigate whether such imported components are being or are likely to be sold at less than fair value. Finally, citing *Royal Business Machines, Inc. v. United States*, 507 F. Supp. 1007 (C.I.T., 1980) and section 735(a)(1) of the Act, MHI argues that the Department lacks the statutory authority and evidentiary basis to grant the petitioners' request for expansion of the scope of investigation.

Nissan contends that it would be improper to extend the scope of investigation beyond the limited clarification sought by petitioners.

DOC Position: We have denied petitioners' request to expand the scope of this investigation for the following reasons. First, prior to the initiation of this investigation, petitioners clearly excluded component parts from the scope of their petition. In a letter to the Department dated may 7, 1987, petitioners stated:

[T]he investigation would cover imports of a fabricated frame by itself or assembled with one or more component parts such as the transmission, drive axle or engine. The fabricated frame, by itself, would be included within the scope of the petition because once a frame is fabricated, it can only be used to produce an internal-combustion, industrial forklift truck and cannot be used to manufacture any other product. In contrast, other *individual* component parts, such as an engine or transmission, when sold as separate units prior to assembly, could be used to produce a product other than an internal-combustion, industrial forklift truck. Thus, these individual parts, separately imported, would not be in the scope of the petition.

On May 11, 1987, petitioners submitted another letter to the Department reiterating their intent to exclude component parts. They stated: "As indicated in our letter on May 7, 1987, we do not intend for this investigation to cover all forklift parts separately imported."

Second, petitioners only speculate as to the apparent intention of the Japanese producers and exporters of forklifts to circumvent antidumping duties. Petitioners do not allege that duties have been or currently are being avoided. In a Department memorandum regarding an administrative review of *Color Television Receivers from Korea*, cited by petitioners in support of their request, the Department had statistical evidence of a decrease in the volume of imported TVs subject to duty and an increase in the volume of separately imported components which were not dutiable. At this time, neither petitioners nor any other party has presented any evidence that major component parts of the forklifts under investigation are being separately imported in order to avoid the imposition of antidumping duties.

Third, petitioners' request to include component parts would encompass components for end-products other than the internal-combustion forklifts under investigation. As petitioners acknowledged in their May 7, 1987 letter, certain individual component parts, when sold separately, can be used in the manufacture of products other than internal-combustion forklifts. For example, some components might be destined for large forklifts outside the scope of this investigation, electric forklifts, or other non-forklift products not subject to investigation. We have insufficient evidence on the record to instruct properly U.S. Customs how to identify the components to which this determination and any eventual antidumping duty order would apply.

Finally, petitioners' February 22, 1988 request to expand the scope of the investigation was made too late in the investigatory process to obtain evidence, to receive comments from parties which may be affected by a revision of the scope of this investigation, and to allow the Department sufficient time to consider the issue.

Comment 33: Petitioners contend that a large number of Toyota's product comparisons are inappropriate because they involve substantial difference in merchandise adjustments. For such sales, the Department should select other home market sales for comparison for find some other basis for calculating foreign market value.

Petitioners further argue that, because Toyota provided difference in merchandise information only on those sales it deemed relevant and failed to provide sufficient cost data for the Department to calculate foreign market value on the basis of constructed value, the Department should use best information available to calculate dumping margins on Toyota's U.S. sales that have no suitable home market comparisons. As best information available, the Department should use the highest *ad valorem* margin found on any of Toyota's sales that have appropriate home market comparisons.

With respect to Komatsu, petitioners contend that, for those instances where Komatsu's product comparisons result in large difference in merchandise adjustments, the Department should either find new home market product comparisons or use constructed value.

DOC Position: It is the Department's practice to disregard home market sales as the basis for foreign market value when the difference in merchandise adjustments claimed are of such a magnitude as to lead us to question whether the home market sales reported can serve as an appropriate measure of foreign market value. There are two basic reasons for this practice: (1) In determining whether U.S. sales are being made at less than fair value, we do not want the difference in merchandise adjustment either to falsely create dumping margins or to mask them; and (2) large difference in merchandise adjustments may indicate that the home market sale is not similar to the U.S. sale, thus, warranting a new comparison.

Because of the wide array of products which we investigate, it would be inappropriate to set any one particular cut-off point, beyond which we would either select another home market comparison or use constructed value. In this investigation, we have followed a strict set of criteria in selecting our product comparisons. Respondents have followed these guidelines. Therefore, for each of our product comparisons, we used the most similar home market sale as our match to the U.S. sale.

During verification, we examined various home market sales which had large difference in merchandise claims. We found that the reason for many of the large difference in merchandise adjustments was that the product sold and special attachments which were not included in the product characteristics which we developed in defining our product comparisons. The costs of these attachments are included in the sales prices charged. These attachments are individually specified on the invoice, and the prices are uniformly set based on the list price. The difference in merchandise adjustment for these attachaments to the home market price does not distort the calculation of sales at less than fair value, because the cost of the attachment is reflected in the sales price of the forklift. By adjusting for this cost in the home market price, we have made the price comparable to a forklift sold without such an attachment.

Comment 34: Petitioners contend that the Department should reject Toyota's inland freight expenses on home market sales because: (1) Toyota claimed this deduction on sales of specific models to all dealers even though it only absorbs freight charges on sales to exclusive dealers; (2) Toyota used an inappropriate method of allocation which it did not correct until after verification; and (3) Toyota failed to segregate freight expenses on demonstration and defective vehicles, repair parts, and shipments to inventory holding areas from the freight expenses incurred on the subject merchandise.

Toyota contends that it properly allocated home market movement charges since records of such expenses are not maintained on a transaction-by-transaction basis and that the expenses do not include extraneous freight charges.

DOC Position: In this determination, we have used the actual, verified charges incurred by Toyota in delivering forklifts to its dealers.

Comment 35: Petitioners contend that Toyota's home market current model incentives were granted on models which were sold prior to the period of investigation on sales of forklifts that are not considered such or similar merchandise, and therefore, should be disallowed. In addition, Toyota's home market forklift replacement incentives were rebates not contingent on, or related to, sales of the subject merchandise, and did not affect the netback price of new forklifts.

Therefore, petitioners argue, these rebates should also be disallowed.

Toyota contends that the Department improperly disallowed its "current model" incentive as a home market indirect selling expense at the preliminary determination because the incentive related to sales outside the period of investigation. Toyota argues that this incentive was intended to recover market share and to assure the successful introduction of a new model which was properly allocated over a full year's sales. Toyota contends that the incentive served to clear dealer inventories of the superseded model in order to sell the maximum number of new models beginning in August 1986, the first month of the period of investigation, and, therefore, part of this expense is related to sales in the review period.

Toyota also argues that the forklift replacement incentive is directly related to and contingent upon the sale of a Toyota forklift by Toyota's dealers and should be deducted from the home market price.

DOC Position: We have disallowed the current model incentive which Toyota claimed as an indirect selling expense incurred on sales of the X300 series. The company claimed that this incentive was to promote sales of the old X200 series to make way for the introduction of the X300 series. We have disallowed this incentive because the purpose of the program was to encourage dealers to place orders of the old X200 series. As such, it was not related to sales of the new X300 series.

We have allowed the forklift replacement incentive because the provision of this rebate was contingent on a sale of a forklift under investigation and we were able to trace these rebates to individual sales made during the period of investigation.

Comment 36: Petitioners contend that the Department should reduce Toyota's home market credit expense for purposes of the final determination to take into account certain "prepayments" made by dealers.

Toyota contends that, contrary to petitioners' assertion, certain "prepayments" made by dealers to Toyota are not related to sales and, therefore, no adjustment to home market credit expense is required.

DOC Position: At verification, we found that no "prepayments" were provided to Toyota by its dealers on sales of forklifts. While certain "prepayments" are required, we verified that they are not used as a form of payment on the forklifts. Therefore, we have made no adjustment to Toyota's credit expense with respect to "prepayments".

Comment 37: Petitioners contend that Toyota's home market technical service expenses relate only to the repair of industrial vehicles, not to the sale of those vehicles. Therefore, the Department should reject this claim for purposes of the final determination because it does not constitute either a direct or an indirect selling expense.

DOC Position: The technical service expenses claimed by Toyota relate to periodic visits by field service representatives to their respective dealerships to train and test mechanics on the use and service of forklifts. These expenses are indirect selling expenses because they are tied to Toyota's sales operations. At verification, we found these expenses to be properly allocated to the subject merchandise.

Comment 38: Petitioners contend that, because Toyota has failed to clarify the expenses included in its home market direct and indirect advertising expense claims, the Department should reject all such claims for purposes of the final determination. However, if the Department allows these adjustments, Toyota's home market direct advertising expenses should be reduced by the amount of any disallowed advertising expenses and by the amount of any reimbursements received by Toyota from its dealers.

Petitioners also contend that Toyota's home market indirect selling expenses include indirect advertising expenses incurred outside the period of investigation on products and services unrelated to sales of the subject merchandise. Therefore, the Department should segregate Toyota's actual indirect advertising expenses incurred during the period of investigation and allow deductions only for those expenses that promote sales of internal-combustion forklifts.

Toyota contends that it properly used different bases for the allocation of domestic sales promotion expenses depending on whether the expenses were routine and aimed at current sales or were part of a promotional effort aimed directly at sales of a new model.

Toyota argues that all of its claimed home market advertising expenses are net of any reimbursements and, therefore, are not overstated as petitioners assert.

Toyota also contends that the Department improperly disallowed its institutional advertising as home market indirect selling expenses at the preliminary determination because the expenses were incurred outside the period of investigation. Toyota argues that it submitted the actual expenses incurred during the period of investigation, that it properly allocated all expenses over the period for which they were incurred, and that these expenses should be treated as indirect selling expenses for the final determination.

DOC Position: Toyota's advertising expenses have been segregated between direct advertising expenses (*i.e.*, advertising directed to Toyota's customer's customer) and indirect expenses. We have treated advertising directed to Toyota's customers, in this case to its dealers, as indirect selling expenses. These expenses have been verified. Toyota has also deducted from these claimed expenses the reimbursements from its dealers that cover the dealers' share of advertising expenses.

Toyota claimed advertising expenses incurred before the period of investigation which we have disallowed. These included advertising for the company's 500,000th Production-30th Anniversary and for the 1985 International Materials Handling Exhibition. A portion of the advertising expenses for the X300 In-House Introduction expenses were also disallowed because they were incurred before the period of investigation. Toyota claimed that the expenses for the 500,000th-30th Anniversary should be allowed because they are tied to the new X300 series of forklifts which were introduced during the period of investigation. During verification, we examined each of the claimed expenses for the 500,000th-30th Anniversary advertising campaign. We found no evidence that these expenses were for the X300 series. Our policy is to allow only advertising expenses which were incurred during the period of investigation. We do not believe that a deviation from that policy is warranted in this case.

Toyota also made a claim for institutional advertising which promotes Toyota's name in general without stressing any particular product. At the preliminary determination, we disallowed this claim because it appeared from the company's response that these expenses were incurred before the period of investigation. At verification, we reviewed these expenses and determined that they were incurred during the period of investigation. Therefore, we have allowed these expenses as an indirect selling expense.

Comment 39: Petitioners contend that expenses related to Toyota's F-80 management information system are G&A expenses, are not incurred to

promote sales of forklifts, nor do they directly affect the netback price of sales of new forklifts. Therefore, the Department should disallow this claim as an indirect home market selling expense.

Toyota contends that the Department improperly disallowed its F–80 Management Program expenses as a home market indirect selling expense at the preliminary determination because the program was not used for the promotion of sales on the merchandise under investigation. Toyota argues that because the objectives of this program are to increase the efficiency of sales and servicing, it directly promotes Toyota's sales to its dealers.

DOC Position: Because the basic purpose of the F–80 Management Program is to track the service history of forklifts sold, we do not consider the expenses related to this program to be selling expenses. Therefore, we have disallowed these expenses for purposes of this determination.

Comment 40: Petitioners contend that labor costs incurred by the Quality Assurance Department of Toyoda Automatic Loom Works, Ltd. (TAL) are manufacturing expenses, not indirect selling expenses and, therefore, should be included as part of the cost of production. Accordingly, the Department should not allow these expenses as an indirect selling expense.

Toyota contends that costs incurred through TAL's Quality Assurance Department in advising dealers' customers on the use and maintenance of forklifts are properly classified as home market indirect selling expenses.

DOC Position: These expenses are not related to the manufacturing of forklifts. They are incurred post-sale in providing technical assistance to Toyota's dealers. As such, we have treated them as indirect selling expenses.

Comment 41: Petitioners contend that an additional 45 days should be added to Toyota's U.S. inventory carrying cost to account for the inventory period after production and before importation into the United States.

Citing *Silver Reed America, Inc. et al. v. U.S.* (Slip Op. 88–5, 1988), *supra*, Toyota contends that the Department should not impute inventory carrying costs for the time prior to entry of the forklifts into the United States.

DOC Position: Toyota has included in its calculation of inventory carrying costs the length of time from the date of production to the date the forklift is shipped to the first unrelated customer in the United States. We made a minor adjustment to this calculation by including three additional days in Toyota's inventory carrying costs as explained under the "United States Price" section A of this notice. (*See* also DOC Position to Comment 21.)

Comment 42: Petitioners contend that, with the exception of its co-op advertising expense, deductions for interest expense, warranty claims, and inland insurance expense, Toyota claimed all of its U.S. operating expenses as indirect selling expenses. In making its final determination, the Department should review the types of expenses included by Toyota as part of its indirect selling expense claim. To the extent that direct selling expenses and value-added costs associated with coordinating and operating the U.S. processing centers are included in Toyota's indirect selling expense claim, they should be deducted from the total ESP cap.

DOC Position: All direct expenses have been properly reported by Toyota with the exception of certain advertising expenses incurred on U.S. sales. We have segregated those advertising expenses from the claimed indirect selling expenses and have treated them as direct expenses. Labor and overhead associated with the value-added operations at the company's processing centers are not included in the ESP cap.

Comment 43: Petitioners contend that Toyota's expenses related to the leasing and rental of forklifts should be disallowed as home market indirect selling expenses because such expenses do not relate to sales of the merchandise under investigation.

DOC Position: Toyota does not lease or rent forklifts in the home market and, thus, did not incur or claim such expenses. However, Toyota offers an incentive program to its dealers that lease or rent forklifts to end-users. Since these forklifts have been purchased by the dealer from Toyota, we consider this incentive program to be tied to sales made by Toyota during the period of investigation. As such, we allowed the expenses of the incentive program as indirect expenses.

Comment 44: Petitioners contend that Toyota's allocation of U.S. warranty expenses is inappropriate since actual warranty expense records for each model series are available. Therefore, the Department should reject Toyota's U.S. warranty expense claim and, instead, deduct the warranty expense claimed by Toyota on home market sales from U.S. price.

Toyota contends that its allocation of U.S. warranty expenses is necessary and proper.

DOC Position: We consider Toyota's allocation of warranty expenses to be reasonable.

Comment 45: Petitioners contend that Toyota's value-added information is inaccurate and unreliable, the labor and overhead costs were based on estimates that were not supported by any records maintained by Toyota, and the methods used to allocate costs were inappropriate. If the Department does not reject Toyota's data, it should recalculate Toyota's U.S. value-added costs by including the general expenses incurred by Toyota in operating its processing centers, costs incurred in carrying an inventory of attachments and options, and the interest expenses associated with carrying such inventory.

DOC Position: Some of Toyota's allocation of labor and overhead to the value-added operations was based on estimates of the processing center's manager. The amount of labor time incurred in performing certain operations, such as attaching options or switching items, were estimates recorded in a report prepared by Toyota. We are using these estimates as best information available. We note that the amount of time reported by Toyota to switch masts, fork arms, and counterweights was stated in the verification report. Petitioners have provided no information indicating that the amount of time reported by Toyota was inaccurate. All actual expenses for labor and overhead were tied to Toyota's accounting records and financial reports. Toyota has also included all expenses associated with its processing centers and value-added operations in the labor and overhead expenses reported in the response.

Comment 46: Petitioners contend that rebates paid by Toyota to U.S. dealers for actual expenses incurred in the installation of optional equipment should be treated as U.S. value-added and deducted with an appropriate amount of profit in calculating net U.S. price.

Toyota contends that rebates paid to dealers for operations and services performed on forklifts after original invoicing are not U.S. value-added. Toyota argues that, since these payments reduce the net return to Toyota for particular sales and are treated by Toyota as rebates, they should be considered price reductions by the Department. Toyota argues that, if the Department does treat these rebates as value-added, no additional profit should be included in the deduction since the profit on such services is already included in the rebates.

DOC Position: We have deducted the payments by Toyota to dealers that installed options on a forklift before

delivery to a National Account customer since this constitutes value-added. A National Account customer is an end-user that purchases forklifts directly from Toyota. However, we calculated no additional profit on these operations since payment for this service is between two unrelated parties, Toyota and its dealers, and any profit on these operations is included in that price and would be earned by the dealer.

Comment 47: Petitioners contend that Toyota has understated the credit period on a substantial number of U.S. sales by basing the reported date of sale on the date Toyota's dealer sells the forklift to its customer rather than the date Toyota ships the forklift to the dealer. Furthermore, the Department learned of the existence of Toyota Motor Credit Corporation (TMCC) only at verification and discovered the payment dates reported by Toyota were incorrect. Petitioners argue that the U.S. credit expense data were not verified and that, therefore, the Department should use as best information available the longest credit period found on any U.S. sale by another respondent.

Toyota contends that it has calculated the U.S. credit expense based on the actual interest-free period allowed its customers and that the expense is not understated as claimed by petitioners.

DOC Position: We verified Toyota's credit expenses and found them to be accurately reported except for minor adjustments which we incorporated in our calculations as detailed under the "United States Price" section A of this notice.

Comment 48: Citing *The Timken Company v. United States*, No. 82–6–00890, Slip Op. 87–118 (C.I.T., October 29, 1987), Toyota contends that the Department should adjust for all U.S. selling expenses by increasing the foreign market value instead of decreasing the U.S. price as was done at the preliminary determination.

DOC Position: There is no basis for the Department to change the methodology used in the preliminary determination because the methodology that we employ is consistent with section 772(e) of the Act which requires the Department to reduce ESP for "expenses generally incurred by and for the account of the exporter in selling identical or substantially identical merchandise * * *." Furthermore, the *Timken* opinion has been remanded to the Department and, therefore, is not final.

Comment 49: Petitioners contend that the Department should not use Nissan's difference in merchandise adjustment data because the information originally submitted was erroneous and could not be reconciled with Nissan's cost of production information. Petitioners further contend that, if the Department accepts Nissan's new information on difference in merchandise adjustments, the cost of options rather than the options price should be used. In addition, petitioners argue that it is unclear whether the cost of options added in Japan on U.S. forklifts has been accounted for in the difference in merchandise data. If the Department is unable to determine whether Nissan has provided this information, the Department should reject Nissan's data.

Nissan contends that although there were differences in the application of variances to the reported difference in merchandise and cost data, these differences were reconciled at verification and the data is accurate. In addition, Nissan states that the cost of options added in Japan has been included in the total amounts shown in the response for materials and direct labor.

DOC Position: The Department verified the difference in merchandise information. However, neither the component-specific variance nor the company-wide variance was used. The Department adjusted standard costs submitted by applying the variance of the plant where forklifts are produced.

As stated in the verification report, we requested that Nissan separately report the options price for purposes other than the difference in merchandise adjustment. We have used the cost of options in calculating the difference in merchandise adjustment. With respect to the cost of options added in Japan, we verified that this was included in Nissan's reported cost of production.

Comment 50: Nissan contends that the Department failed to take into account the cost of options on home market sales as difference in merchandise adjustments in the preliminary determination. The Department should adjust for the cost of these options in its final determination.

DOC Position: The Department was unable to adjust for the cost of these options in the preliminary determination. Nissan did not report the cost of options on home market sales on the computer tape submitted for use in the preliminary determination and admitted to this error after the preliminary disclosure conference was held. For purposes of this determination, we have based our difference in merchandise adjustment on the cost of manufacture data verified in Japan. This cost includes the cost of options on home market sales.

Comment 51: Petitioners contend that Nissan's actual costs should be calculated based on the variance of the plant that produces forklifts rather than on a company-wide variance.

Nissan contends that use of the cost variance for the Murayama plant as calculated in the cost verification report is inappropriate because (1) the monthly data used in the calculation are not as accurate as data for 6-month periods, and (2) calculation of the cost variance for the Murayama plant in isolation does not take into account expenses incurred elsewhere which benefit production at Murayama. Nissan argues that the cost variance for the company as a whole should be used instead.

DOC Position: The company-wide variance is an aggregation of the variances from all operations of the company, most of which are neither directly nor indirectly related to the manufacture of forklifts. To apply the company-wide variance to the specific standard costs for forklifts for the six months from August 1986 through January 1987 would distort actual costs. Therefore, the Department has applied the Murayama plant variance to the standard costs of the forklifts to obtain actual costs.

Comment 52: Petitioners contend that the Department was unable to verify Nissan's interest expense and, therefore, as best information available, it should attribute to Nissan's cost of production the largest interest expense that it finds for one of the other respondents.

Nissan contends that, if the Department bases its calculation of interest income and expenses on the consolidated financial statements, Nissan's short-term interest expense must be reduced by the portion attributable to account receivable and finished goods inventory based on the ratio of accounts receivable and finished goods inventory to net current assets after deduction of non-interest bearing current liabilities. In any event, the Department has sufficient information related to Nissan's consolidated and unconsolidated accounts to calculate a net home market interest expense for the company.

DOC Position: The Department obtained the major items included in Nissan's consolidated Ministry of Finance Report. From this, the Department calculated the adjusted amount of interest applicable to forklifts.

Comment 53: Petitioners contend that the Department should disallow several rebates claimed by Nissan on home market sales for the following reasons: (1) There were discrepancies between the information provided in the response and that found at verification; (2) some

of the rebates were improperly allocated; (3) some of the rebate programs were not in effect during the period of investigation or were not given on sales during the period of investigaton; (4) Nissan has grouped certain rebates together without a clear explanation of what was included; (5) certain rebates are directly related to sales which are not subject to this investigation; (6) certain rebates claimed by Nissan are G&A or goodwill expenses rather than selling expenses. In addition, petitioners maintain that Nissan itself claimed that sales on which a certain rebate was paid were not made in the ordinary course of trade. The Department, therefore, should not use the sales on which this rebate was paid as home market comparisons for U.S. sales.

Nissan contends that the Department's preliminary determination improperly disallowed certain deductions from the home market price for payments made to dealers. Nissan argues that these payments are indirect selling expenses because they are designed to assist dealers in their selling activities and to provide incentives to dealers to improve the efficiency of their operations. In addition, Nissan contends that petitioners' comments regarding home market rebates are based on incorrect information and misunderstandings, and that the Department has the necessary corrected data to account for these rebates in any manner it chooses.

DOC Position: Where minor errors were found during verification on certain rebates, we verified the corrected information and instructed Nissan to submit a revised response. Where we were unable to verify the corrected information, we have disallowed these rebates in our final determination. With respect to the rebates claimed by Nissan for assisting dealers in their selling activities, because they were provided to dealers to improve the efficiency of dealers' operations, we have allowed these payments as indirect selling expenses and allocated them over average dealer revenue for sales of new forklifts, sales of parts, and servicing.

Comment 54: Petitioners contend that Nissan did not provide a breakdown of its credit expense and interest revenue on its sales in the United States. Therefore, the Department should base Nissan's credit costs on Nissan's gross credit expense.

Nissan contends that the calculation of credit in the U.S. and home markets must take into account the amount of interest earned on each sale. The adjustment should be equal to the total amount of credit expense up to the time of payment, less the interest received from customers. The Department has verified that NIEC charges and collects interest.

DOC Position: We have taken into account the interest revenue from the customer, but not in the way Nissan suggests. Nissan's customers know at the time of sale that, if payment is made after a certain date, interest will be charged. As such, we consider the interest revenue to be an increase in price agreed to by the customer at the time of sale. We have added the credit revenue earned by Nissan on U.S. and home market sales to the U.S. and home market price, respectively, and have recalculated the credit expense based on that amount between shipment and pyament. Because Nissan misreported the terms of payment on its U.S. sales to dealers, we used the longest payment term as the basis for the interest revenue and credit expense calculations for all sales to dealers. We recalculated credit expense on home market installment sales based on the declining balance of principal and interest.

Comment 55: Petitioners contend that, because Nissan failed to provide home market warranty expenses separately for the F01/F02 and H01/H02 models, the Department should disallow the warranty expense claimed on these models.

Nissan contends that the home market warranty expenses for F01/F02 and H01/H02 series forklifts combined are a more accurate reflection of warranty expenses on the sales under investigation than the brief history of warranty claims for the latter series alone.

DOC Position: Given that we do not consider the F01/F02 series to be obsolete, we consider it appropriate to include all warranty expenses incurred during the period of investigation on both series.

Comment 56: Petitioners contend that the Department should disallow Nissan's claim for a deduction from home market price for expenses incurred for incidential warranty-type services (*e.g.*, loaner forklifts during repairs, services outside the warranty period, and reimbursement to dealers for installation of options) because Nissan did not report this information on a sale-by-sale basis. In addition, Nissan's claims should be rejected because Nissan has not shown that these expenses were incurred on sales made during the period of investigation, or that they were made in the normal course of business. In support of their argument, petitioners cite *Dry Cleaning Machinery from West Germany; Final Results of Antidumping Duty Administrative Review* (52 FR 11299, April 8, 1987) in which the Department disallowed warranty expenses paid outside the warranty period.

Nissan contends that home market expenses for loaner forklifts, incidental warranty-type expenses, and reimbursements to dealers for options installation are very small and appropriately allocated as expenses incurred during the period of investigation even if they are related to sales made prior to the period.

DOC Position: It is unlikely that the warranty expenses claimed during the period of investigation would be applicable to sales made during that period due to the terms of the warranty. We allowed Nissan's loaner forklifts and options installation expenses as direct selling expenses. However, both Nissan and Toyota claimed expenses incurred on servicing and repairing forklifts outside of the warranty period. We disallowed these expenses as warranty claims but have accepted them as indirect selling expenses. This decision is consistent with the above-cited case since we are not treating these claims as a circumstance of sale adjustment, but rather as an indirect selling expense.

Comment 57: Petitioners contend that expenses for a May 1987 exhibition should not be included in Nissan's home market advertising expenses because they were incurred outside the period of investigation. If these expenses are to be included at all, they must be reallocated because Nissan attributed the entire 1986 allocated portion to forklifts, even though the exhibition was for all products within the Industrial Machinery Division.

In addition, petitioners contend that Nissan's response pertaining to home market advertising expenses is incomplete and that the expenses should have been provided on a model-by-model basis for the period of investigation to ensure that the expenses reported relate directly to the sales under investigation. Therefore, the Department should disallow these expenses or, if they are allowed, they should be treated as indirect selling expenses.

Nissan contends that the points raised by petitioners are primarily issues which were examined in detail at verification and, since petitioners had ample opportunity to raise their concerns prior to verification, their concerns are untimely.

DOC Position: Because Nissan did not report advertising expenses on a model-by-model basis, we allocated total

advertising expenses over total home market sales. We disallowed Nissan's advertising expenses related to the May 1987 exhibition because the exhibition took place three months after the end of the period of investigation and, as such, bears no relationship to the forklifts sold during the period of investigation.

Comment 58: Petitioners contend that Nissan's home market remodeling expenses, which were reported both separately as a direct selling expense and included in indirect selling expenses, are fabrication costs which should be included as part of Nissan's cost of production. In addition, petitioners argue that, if the changes to this data which were submitted after verification benefit Nissan, the pre-verification data should be used.

Nissan contends that while a post-verification submission revised a number of figures on the home market remodeling expenses, the overall effect is miniscule and the revisions were verified.

DOC Position: We have included Nissan's verified remodeling expenses in the calculation of the cost of manufacture rather than allowing them as a direct selling expense, and have not included them in indirect selling expenses.

Comment 59: Petitioners contend that the Department should disallow Nissan's claim for "other" expenses as part of the home market indirect selling expenses because they could not be verified.

DOC Position: For the calculation of cost of production, we used the total amount of home market indirect selling expenses reported. For the calculation of foreign market value, we allowed only those items which were verified. For example, Nissan stated at verification that the documents supporting other expenses had been lost. These expenses comprised a large percentage of the total claim.

Comment 60: Nissan contends that the Department should not allocate a portion of the general expenses of the Japanese parent (*i.e.*, Nissan Motor Company (NMC)) to the U.S. sales of the related U.S. importer, NIEC, because (1) the operations performed in the U.S. are not subject to any material amount of supervision by NMC, and (2) the supervision that does occur is performed by the Industrial Machinery Division and is already being allocated to ESP sales in the form of indirect selling expense incurred in Japan.

DOC Position: The Department did not attribute G&A expenses of the operations in Japan to the value-added operations in the United States for Nissan. However, since Nissan did not report an amount for G&A for the U.S. operations, nor were these expenses reflected on the financial statements of the U.S. subsidiary, the Department used, as best information available, the G&A expenses reported in Nissan's response for the Japanese operations.

Comment 61: Petitioners contend that, because Nissan was able to calculate a sale-by-sale inventory carrying cost in its cost of production response, that cost should be used for the home market inventory carrying cost in the sales response. In addition, because Nissan did not report specific information on U.S. inventory carrying costs on a sale-by-sale basis, the information on the cost of production for U.S. forklifts should be used in conjunction with NIEC's short-term borrowing rate and the average number of days in inventory to recalculate a sale-specific inventory carrying cost. Petitioners further contend that, because Nissan did not provide information on the amount of time between production and shipment, the Department should add an additional 30 days to Nissan's inventory period.

DOC Position: We have recalculated the inventory carrying cost on U.S. and home market sales on a sale-by-sale basis, using the cost of production and Nissan's home market and U.S. short-term borrowing rates. For the home market expense, we have used as best information available an average period between production and shipment to home market dealers, based on documentation gathered at verification. For the U.S. expense, we have added 15 days for the period between production and export to the United States to the figures submitted by Nissan, based on petitioners' U.S. experience.

Comment 62: Petitioners contend that Nissan's methodology to determine whether it is selling below cost is inappropriate. Therefore, the Department should take Nissan's base price plus options, less all discounts and rebates and less freight costs and compare that to the total cost of manufacture, G&A expenses, remodeling costs, credit costs, plus all selling expenses reported in the sales response to determine sales below cost of production.

Nissan contends that it did not attempt to compare gross price with the cost of production, and that it is more appropriate to deduct rebates and discounts from gross price than to include them in the cost of production. Therefore, Nissan's cost of production was correctly calculated.

DOC Position: We have calculated the cost of production based on our standard methodology, as described in the "Foreign Market Value" section B of this notice.

Comment 63: Petitioners contend that the total amount of service payments reported in Nissan's response does not match the total amount reported on the sales listing. Therefore, the Department should reallocate the higher amount over sales of the subject merchandise based on the cost of goods sold.

Nissan contends that the amount of total U.S. service payments verified by the Department differs from an earlier response because the earlier response included payments on sales outside the period of investigation and on products outside the scope of the investigation. Nissan argues that the verified amount, and not the earlier amount, is the correct information to be used in the final determination.

DOC Position: In making the deduction for service payments, we used the verified amounts, as reported in Nissan's revised submission.

Comment 64: Petitioners contend that, because Nissan did not provide verifiable information pertaining to its U.S. indirect selling expenses incurred in the United States, the Department should use the percentage derived from NIEC's financial statements to determine those expenses.

Nissan contends that the verification report incorrectly states that Nissan was unable to provide an adequate explanation of the allocation methodologies for NIEC's indirect selling expenses and labor and overhead expenses of the forklift shop. They state that they had no indication that the verifiers did not understand the allocation methodologies used.

DOC Position: At verification, Nissan could not provide a clear explanation of the allocation methodology used in the response. We requested that Nissan revise its allocation of indirect selling expenses which we verified and have used in this determination.

Comment 65: Petitioners contend that Nissan incorrectly calcualted its U.S. warranty expense. Therefore, the Department should recalculate this expense using the ratio of the sales value of the products under investigation to the sales value of all forklifts during the period of investigation and applying this ratio to the highest total warranty expense amount reported by Nissan. The result should then be allocated to the products under investigation based on the cost of goods sold for each product.

Nissan contends that the exact amount of U.S. warranty expense related to each series of forklift has

been verified and no allocation of these expenses is necessary.

DOC Position: We made a deduction from U.S. price for the verified warranty expenses.

Comment 66: Petitioners contend that Nissan's home market indirect selling expenses and credit expenses reported in the sales response do not correlate with the information provided in the cost of production response. Therefore, for purposes of the final determination, the Department should rely on the information least favorable to Nissan.

Nissan contends that the differences in the credit expenses reported in the home market sales response and the cost of production response are attributable to the fact that the latter is based on the Department's methodology used at the preliminary determination. Nissan also argues that the different indirect selling expenses reported are attributable to the fact that a portion of them was broken out separately on the latest computer tape.

DOC Position: As stated above, we have recalculated home market indirect selling expenses and credit expenses in our final determination based on information obtained at verification.

Comment 67: Petitioners contend that the net home market prices reported by Nissan are incorrect and that the "negative options" should be added to the price to determine the actual selling price for the products under investigation.

Nissan contends that home market "negative options", which reflect post-sale adjustments to prices of earlier sales, have a minimal impact on foreign market value since similar adjustments were made with respect to sales during the period of investigation which were recorded as "negative options" after the period.

DOC Position: We have added the amount of these adjustments back into the reported sales prices since these account adjustments were not related to the sales under investigation.

Comment 68: Petitioners contend that Nissan's "Tokuso" sales in the home market are made in the ordinary course of trade and should be used as comparisons with U.S. sales.

Nissan contends that so-called Tokuso forklifts sold in the home market have non-standard features and require custom designing and, therefore, are not as similar to the products sold in the United States as base machines sold with regular options. They state that the Department has all the necessary information if it were to determine that particular Tokuso sales are the most comparable to U.S. sales.

DOC Position: We have determined that Nissan's Tokuso sales were made in the ordinary course of trade and that any physical differences in the Tokuso products could be accounted for by a difference in merchandise adjustment. Therefore, we have included these sales in our analysis.

Comment 69: Petitioners contend that Nissan's sales of "obsolete" models are not, in fact, obsolete as defined in the Department's policy paper on which Nissan bases its claim. The Department should include these sales in the calculation of ESP, particularly since Nissan has not argued that they be removed from the calculation of foreign market value.

Nissan contends that the Department should either not consider sales of obsolete models in its calculation of ESP or should make a circumstance of sale adjustment to foreign market value to take obsolescence into account.

DOC Position: We do not consider the models referred to by Nissan to be obsolete. The physical characteristics and functions of these models do not differ significantly from the models now being produced and sold under a new model number. As such, we have included these sales in the calculation of ESP and have not made an adjustment to foreign market value for obsolescence.

Comment 70: Petitioners contend that, since Nissan underreported the amount of time required to perform an LP conversion (*i.e.*, adapting a gasoline engine to use liquid propane fuel), the Department should increase the time for each value-added operation performed by NIEC.

DOC Position: The Department reviewed each function performed by NIEC and the time associated with each function. At verification, we found that the LP conversion time had been understated. Accordingly, we adjusted the labor cost on LP conversions based on verified information. We found that the time associated with other functions was accurately reported. Therefore, no additional time has been added to other value-added operations.

Comment 71: Petitioners contend that the information provided by Nissan on foreign inland insurance, foreign inland freight, foreign shipping charges, and the foreign invoice preparation fee on U.S. sales is inadequate because it is based on expenses in the six-month fiscal period April through September 1986, rather than expenses incurred during the period of investigation. Therefore, the Department should use the largest freight costs per model in its final determination.

Nissan argues that the freight expenses for April through September 1986 correspond most closely to the sales made by NIEC during the period of investigation.

DOC Position: At verification, we saw that ESP transactions during the period of investigation generally incurred charges in the home market between April and September. We reviewed these expenses at verification and have used them in this determination.

Comment 72: Petitioners contend that Nissan's prep fees should be deducted from U.S. price.

Nissan contends that its inadvertent omission of the U.S. prep fee in its original response should not be construed agaisnt it since the error was unfavorable to Nissan.

DOC Position: Given that Nissan reported prices net this prep fee, it has already been accounted for in our analysis.

Comment 73: Nissan contends that the Department's product comparison procedures followed in the preliminary determination produced "highly anomolous results", specifically, the comparison of a large number of U.S. models with a single sale in Japan. Nissan argues that we should look only to "major" product characteristics in selecting the home market forklifts to be used for comparison and that minor characteristics such as hose reels and fork arms should be treated as options.

Komatsu also argues that the Department's product comparison criteria give undue weight to mast type (upright style) over other characteristics which Komatsu considers to be more indicative of the basic forklift such as engine type, engine size, and transmission type.

DOC Position: Prior to the issuance of our original questionnaire, we consulted with petitioners to develop a hierarchy of product characteristics so as to compare products for each respondent on a consistent basis. While individual manufacturers may place more or less emphasis on a particular characteristic, all respondents agreed that the characteristics we selected were, for the most part, the most important ones. All physical characteristics other than the primary characteristics also have been accounted for in the difference in merchandise adjustment.

Comment 74: Petitioners contend that Nissan failed to lower its U.S. prices for certain price adjustments discovered at verification. Therefore, the Department should either reject Nissan's response or, at a minimum, make these adjustments to Nissan's U.S. prices.

DOC Position: We agree with petitioners and have made the appropriate adjustments to the U.S. prices reported.

Comment 75: Petitioners contend that, since Komatsu's cost of production information does not reconcile with the cost information in its product concordance, the Department should only make difference in merchandise adjustments that increase foreign market value.

DOC Position: We have used verified cost data to calculate home market costs of production and differences in merchandise adjustments.

Comment 76: Petitioners contend that Komatsu used an inappropriate method of calculating interest expense in its cost of production and constructed value information. Therefore, the Department should recalculate Komatsu's interest adjustment.

Komatsu contends that, if the Department intends to deduct interest income from investments not related to operations from the reported net interest income, then the Department should deduct interest costs incurred with respect to such investments from the cost of production.

DOC Position: Interest, which included income and expenses from installment sales, was recalculated to reflect only the interest expense incurred in producing the forklifts, offset for a proportional amount related to credit and inventory.

Comment 77: Petitioners contend that Komatsu failed to report all of its Parts Department's G&A expenses and, therefore, understated the cost of production it reported for the home market forklifts under investigation.

Komatsu contends that its Parts Department's G&A expenses should not be included in the cost of production because that department handles spare repair parts only and does not supply attachments to dealers.

DOC Position: We have included the Parts Department's expenses in G&A expenses as they were recorded in KFC's financial records. We consider the costs incurred to maintain an inventory of parts for future repairs to be a normal G&A expense of a forklift manufacturer and, therefore, we have allocated them as a G&A expense to the cost of manufacture of Komatsu's forklifts.

Comment 78: Petitioners contend that the actual selling prices reported by Komatsu on certain home market sales do not reconcile with the actual selling prices reported in its cost of production response. Therefore, the Department should adjust upward the actual selling prices in the sales database to correspond with the selling prices reported in the cost of production response.

DOC Position: The Department has used the verified actual selling prices reported in the sales response for purposes of this determination.

Comment 79: Petitioners contend that the Department should not allow home market freight charges incurred in moving goods to warehouses for storage prior to sale. Petitioners also argue that freight expenses incurred by Komatsu in transporting forklifts from the factory to related dealers constitute pre-sale related party payments and, therefore, should not be deducted from foreign market value. In support of these contentions, petitioners cite *Color Television Receivers; Except for Video Monitors, from Taiwan; Final Results of Antidumping Duty Administrative Review (Receivers from Taiwan)* (51 FR 46895, December 29, 1986) and *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review (Receivers from Japan)* (53 FR 4050, February 11, 1988).

Komatsu contends that failure to adjust for factory-to-dealer inland freight expenses in the home market would prevent a fair "ex-factory price" comparison as required by the law. Furthermore, these are no more "pre-sale" expenses than are Japanese inland freight, ocean freight, and U.S. inland freight on ESP sales.

DOC Position: In *Receivers from Taiwan,* we treated a respondent's home market freight claim as a general expense because the transportation charge was incurred in shipping the goods to a facility used for general storage as well as distribution. In *Receivers from Japan,* we denied a respondent's claim for certain home market inland freight expenses because they were incurred prior to the sale of the merchandise. In the case of Komatsu, home market dealers do not store inventory prior to sale. Shipments are made from the factory subsequent to the consummation of the sale between the dealer and the end-user customer. Therefore, we have allowed Komatsu's claim for purposes of this determination.

Comment 80: Petitioners contend that Komatsu's home market inland freight expenses incurred in transporting forklifts from the dealer to the customer appear unreasonably high in relationship to the ocean freight expenses claimed on its ESP sales and, therefore, should be disallowed.

DOC Position: We verified that the inland freight charges reported in the response are the actual charges incurred by the dealer. As such, they are appropriate deductions from the home market price.

Comment 81: Petitioners contend that an adjustment to home market price for charges incurred by respondent manufacturers for services performed by related dealers must be based solely on the actual cost of providing the service. The adjustment should not include any profit earned by related dealers in the adjustment claimed. If profit for these expenses is not provided on an individual basis, the Department should use as best information available an average profit percentage earned by a related company to calculate a profit proxy.

DOC Position: Komatsu is the only respondent with related-dealer transactions which we are not treating as arm's-length for purposes of this determination. In calculating charges and adjustments in the home market, we did not take into account transfer payments between Komatsu and its related dealers. All charges and adjustments were based on actual expenses incurred by either Komatsu or its dealers.

Comment 82: Petitioners contend that the Department should reject Komatsu's pre-verification and post-verification home market credit expense claims because neither has been verified adequately. Even if the new data were verified, the Department should not use it because it would overstate the credit expense. Petitioners further argue that the Department should not deduct credit expenses for Komatsu's sales for which shipment or payment dates were not reported.

Komatsu argues that, contrary to petitioners' assertion, home market credit expenses have been verified.

DOC Position: During verification, we found that there were actually multiple payment dates for many home market sales. The payment date reported was the date of the first payment received and was not reflective of the actual number of days outstanding for the entire balance of payment. At verification, we requested that Komatsu recalculate credit expense based on the actual number of days in which a portion of the balance was outstanding. These recalculations were verified for three of the company's dealers (two of which were Komatsu's largest dealers). The recalculation of credit for the other dealers is comparable to the credit recalculations of the three verified dealers. As such, we are using the expenses reported for each dealer as best information available.

Comment 83: Petitioners contend that the Department should disallow certain

sales commissions claimed by Komatsu on home market sales because Komatsu did not provide the Department with sufficient information on the commissions and because Komatsu was unable to substantiate at verification the amounts claimed.

Komatsu contends that adjustments should be made to home market sales for certain payments to third parties and employees which are contingent upon consummation of a sale because they are specific to a particular sale and represent actual out-of-pocket expenditures. Komatsu argues that certain of these payments to salesmen are properly allowable because the payments benefit the individual recipient and, therefore, are not mere internal transfers of corporate funds.

DOC Position: We verified that Komatsu paid bonuses to individuals and to its dealer's employees who introduced new customers. Since the payments are actual expenditures made by the company tied to specific sales and are not intracompany transfers, we are treating the expenditures as home market sales commissions.

Comment 84: Petitioners contend that, because Komatsu was unable to demonstrate that certain sales promotional items were actually provided to customers and because Komatsu made unsolicited changes in its data in its post-verification submission regarding these expenses, the Department should disallow this claim as either a direct or indirect selling expense on home market sales.

DOC Position: We verified the expenses claimed under this form of sales promotion and determined that these items are used to promote the sales of forklifts. We are treating these expenses as indirect selling expenses since Komatsu and its dealers are related and, thus, these expenses are directed as Komatsu's customers.

Comment 85: Petitioners contend that Komatsu's claim for certain home market advertising expenses directed at end-user customers should be rejected as an indirect selling expense because Komatsu used an inappropriate method of allocation to calculate these expenses and because Komatsu failed to show that these expenses were actually incurred during the period of investigation.

Komatsu contends that certain model-specific home market advertising expenses are designed to induce end-user customers to purchase forklifts for and are reasonably allocated expenses for which an adjustment should be made.

DOC Position: We verified that Komatsu's advertising claims were incurred during the period of investigation and that the company had properly allocated them to sales of forklifts. We are treating these expenses as indirect selling expenses since Komatsu and its dealers are related and, thus, these expenses are directed at Komatsu's customers.

Comment 86: Petitioners contend that Komatsu has not attempted to show that differing levels of trade affect price comparability. Rather, it has tried to prove that this adjustment is warranted based on quantification of the cost differentials of selling at differing levels of trade. Komatsu has simply aggregated its dealers' indirect selling expenses but has provided no other substantiation that these costs were incurred because the sales were made at a different level of trade.

Petitioners also argue that Komatsu has claimed a deduction from home market price for indirect selling expenses incurred by itself and related dealers. Therefore, to claim a level of trade adjustment equal to the indirect selling expenses incurred by related dealers would result in a double adjustment—one as part of the ESP offset provision and the other as part of the level of trade adjustment. For these reasons, the Department should reject Komatsu's level of trade adjustment.

Komatsu contends that the Department, in its preliminary determination, improperly compared home market retail transactions with U.S. wholesale transactions without adjusting for the difference in levels of trade being compared as required by 19 CFR 353.19. Komatsu argues that it has established that it experiences actual differences in selling costs associated with sales at the different levels of trade in the two markets, that the difference in costs is equal to the additional dealer overhead incurred in Japan but not in the United States, and that this difference has been fully quantified, documented, and verified. Since the dealers in each market perform exactly the same functions, the costs incurred by Komatsu's home market dealers in providing those services is an accurate measure of the additional cost associated with selling at the retail level in Japan as compared with selling at the wholesale level in the United States.

Komatsu further argues that the Department's circumstances of sale adjustments recognize that differences in costs incurred in selling in one market versus another market have a direct effect on price, and that the difference in merchandise adjustments recognize that a cost difference reflected in a physical difference likewise affects the price of products compared. Accordingly, the evidence of costs incurred by dealers in one market but not in the other market establishes the actual differences in selling costs due to selling at different levels of trade and fulfills the requirements for this adjustment as stated in *Fundicao Tupy v. United States*, Slip Op. 88–3 (C.I.T., January 12, 1988). Furthermore, to avoid a double adjustment of the indirect selling expenses, the level of trade adjustment should be made before adjusting for the ESP offset.

Komatsu also contends that, when presented with prima facie evidence that prices at different levels of trade are being compared, the Department has an affirmative duty to seek all data necessary to make the level of trade adjustment and that it has no discretion to refuse to do so. If the Department denies a level of trade adjustment, *Silver Reed America, Inc. et al. v. U.S.* (Slip Op. 88–5, 1988) requires that a detailed explanation must be given disclosing why a party has failed in its proof of the matter. Finally, Komatsu argues that if a level of trade adjustment is not granted in this case, the Department will have effectively read 19 CFR 353.19 out of the regulations which is impermissible without following the rulemaking procedures of the Administrative Procedure Act.

DOC Position: Section 353.19 of our regulations allows for an adjustment when comparing the prices of U.S. and home market sales made at different levels of trade. This section, like other provisions dealing with differences in circumstances of sale (either based upon differences in wholesale quantities or "other" circumstances of sale), is governed by 19 CFR 353.13 which provides that: "The person who alleges entitlement to any adjustment pursuant to §§ 353.14 through 353.19 must establish entitlement thereto to the satisfaction of the Secretary." In order to be entitled to an adjustment for differences in the levels of trade, the party claiming the adjustment must establish to the Department's satisfaction that the differences in the levels of trade affect price comparability. The Department has interpreted the regulation as requiring affirmative evidence that the differences in the prices are the result of selling at one level of trade as compared to the other in the home market. *See Final Determination of Sales at Less Than Fair Value; Industrial Nitrocellulose from France* (48 FR 21615, May 9, 1983) and *International Trade Administration Countertop Microwave Ovens from Japan; Final Determination of Sales at Less Than Fair Value, and Exclusions*

from Final Determination of Sales at Less Than Fair Value (45 FR 80157, December 3, 1980).

Komatsu has claimed a level of trade adjustment on the basis that virtually all of its U.S. sales are made to unrelated dealers, while in the home market Komatsu was required to report sales to its dealers' customers (*i.e.*, end-users) since nearly all of its home market dealers are related.

The Department requires that a company establish its claim for a level of trade adjustment by showing that within the home market, where all other facts are equal, there is consistent pricing between the different levels of trade. This establishes that the difference in price between the U.S. sale and the home market sale is attributable to a difference in the levels of trade rather than differences resulting from disparate market conditions in two distinct markets. An adjustment cannot be made for differences in level of trade just because costs are different when comparing sales to the United States and sales in the home market.

The Department cannot make the assumption that, because there are differences in costs between home market and U.S. sales, it should make a level of trade adjustment, because it "cannot [be] assume[d] that the market conditions and distribution network in the United States would be the same as in [the home market]." *Final Determination of Sales at Less Than Fair Value; Certain Carton Closing Staples and Staple Machines from Sweden* (48 FR 49323, October 25, 1983). *See also Low-Fuming Brazing Copper Rod and Wire from New Zealand; Preliminary Determination of Sales at Less Than Fair Value* (50 FR 31405, August 2, 1985).

Komatsu made its claim for a level of trade adjustment based on an examination of the selling expenses incurred on sales to dealers in the United States and sales to end-users in the home market. In order to qualify for a level of trade adjustment, as stated above, Komatsu would have to demonstrate that it incurs different selling expenses in selling to different levels of trade in the home market (*i.e.*, to both unrelated dealers and end-users). However, the number of sales to Komatsu's unrelated dealers in the home market were so insignificant that the Department could not make an appropriate comparison of different selling prices at the different levels.

Since there are many factors which affect the selling expenses in the two different markets, regardless of the level of trade, it is impossible for us to quantify the differences incurred in selling to different levels of trade by examining the expenses incurred in selling to two different markets. Our circumstance of sale adjustments do not measure the differences in selling expenses incurred in selling to different levels of trade, but measure the differences in selling expenses incurred in selling to two different markets. Komatsu's contention that evidence of differences in selling expenses to dealers in the United States and end-users in Japan warrants making an adjustment for level of trade is without merit and is illogical. If one were to accept Komatsu's argument, there should be no differences in selling expenses in selling to dealers in the United States and in selling to dealers in Japan.

Contrary to Komatsu's assertion, the Department has allowed a level of trade adjustment where the respondent has adequately supported the claim. *See Final Determination of Sales at Less Than Fair Value; Tapered Rolling Bearings and Parts Thereof, Finished and Unfinished, from Japan* (52 FR 30700, August 17, 1987). However, in this case, Komatsu has not demonstrated its entitlement to the level of trade adjustment. At no point in this investigation did we refuse to consider relevant information from Komatsu necessary to make a level of trade adjustment.

Comment 87: Petitioners contend that the sale of a new forklift by a Komatsu dealer in return for money and a trade-in should not be viewed as two distinct transactions. Rather, because the amount of money tendered by the purchaser and accepted by the dealer reflects the existence of the trade-in, the Department should make an adjustment for trade-ins in the final determination. According to petitioners, the trade-in adjustment should be added to foreign market value to reflect the actual amount the dealer obtained on the sale. This adjustment should be calculated by taking the resale price less any trade-in allowance and reconditioning expense. Petitioners further argue that, for those sales in which Komatsu did not resell a forklift accepted as a trade-in, the Department should disallow any reconditioning expenses claimed.

Petitioners also contend that Komatsu's claimed adjustment for the loss it incurs on scrapped trade-in forklifts should be rejected because Komatsu allocated this expense over all dealer sales although the claim cannot be tied directly to those sales, and because the residual value of scrap is an economic gain that should be added to, not subtracted from, foreign market value. Petitioners further argue that double-counting would result if the trade-in allowance is subtracted from foreign market value and the Department also grants the claim for trade-in scrap.

Komatsu argues that petitioners have presented no persuasive rationale or evidence to support its proposed methodology of valuing trade-ins and that the proposed methodology ignores a variety of other costs and imputed expenses absorbed by the dealer. Therefore, the Department has insufficient data to make such an adjustment should it decide to do so.

DOC Position: First, we are confused by petitioners' assertion that the sale of a new forklift and the receipt of a trade-in on that sale should not be viewed as two distinct transactions, while under Comment 35 petitioners argue that the acceptance of a trade-in is not related to the sale of a new forklift. Nevertheless, we agree that the acceptance of a trade-in is part of the same transaction as the sale of the forklift. That is the reason we allowed Toyota's truck replacement incentive rebate. Therefore, in calculating credit expenses, we deducted the trade-in allowance from the sales price to reflect the actual amount of credit assumed by respondents on the sale. The trade-in allowance is already included in the sales price of the new forklift, so no further adjustment to the home market price is warranted.

We disagree with both petitioners and Komatsu that a further adjustment to the home market price is needed to reflect the resale value of the trade-in and the reconditioning expense of the trade-in. Resale value and reconditioning expenses are related to the sale of the *trade-in*. This is a transaction distinct from Komatsu's sale of a *new* forklift.

Comment 88: Petitioners contend that the Department should disallow Komatsu's claim for home market indirect selling expenses because Komatsu included G&A expenses and used inappropriate methodologies to allocate these expenses.

DOC Position: We have not included G&A expenses in the indirect selling expenses for Komatsu.

Comment 89: Petitioners contend that the Department should use Komatsu's actual date of production for each sale to calculate home market inventory carrying costs.

DOC Position: We agree and have done so in this determination.

Comment 90: Petitioners contend that the Department should base Komatsu's U.S. inventory carrying cost calculation on the length of time from shipment in

Japan to shipment to the unrelated U.S. customer.

Citing *Silver Reed America, Inc. et al. v. U.S.* (Slip Op. 88–5, 1988), *supra*, and section 772(e)(2) of the Act, Komatsu contends that the cost of carrying inventory prior to entry into the United States is not an expense incurred in the United States and should not be deducted from ESP.

DOC Position: We have calculated inventory carrying cost from the date of production to the date of shipment to the first unrelated buyer. See also DOC Position to Comment 21 above.

Comment 91: Petitioners contend that Komatsu allocated its U.S. indirect selling expenses over total sales rather than ESP sales, thus understating the amount of the adjustment. Petitioners further argue that the Department should recalculate the allocation of these expenses over ESP sales based on the cost of goods sold for purposes of the final determination.

DOC Position: We consider the allocation to be reasonable given that both purchase price and ESP sales are handled by Komatsu's U.S. subsidiary. Furthermore, our normal allocation methodology is based on sales value rather than cost of goods sold.

Comment 92: Petitioners contend that, for Komatsu, the sales price of attachments and accessories added in the United States, as well as the portion of inland freight expense attributable to such attachments and accessories, should be deducted from the U.S. price for both ESP and purchase price transactions.

DOC Position: We agree with petitioners with respect to the sales prices of attachments and accessories on both ESP and purchase price sales. (*See* also DOC Position to Comment 27 above.)

With respect to inland freight, because the unrelated U.S. dealer is responsible for these charges, we did not deduct the expenses incurred for shipment of attachments and accessories.

Comment 93: Petitioners contend that, when lease transactions are sales-type leases, as in the case of Komatsu, they constitute sales subject to this investigation which should be used in the calculation of foreign market value. Where transactions are bona fide lease transactions, as in the case of Toyota, they should not be used as a basis for comparison to U.S. sales or for calculating foreign market value. In addition, where complete information on lease transactions was not provided, as in the case of Komatsu, the Department should use best information available in the final determination.

Toyota contends that, contrary to petitioners' assertion, home market transactions with certain payment terms are sales to dealers who buy forklifts in order to lease or rent to end-users. These transactions by Toyota are not leases and, therefore, are properly included as sales in the home market.

Komatsu contends that its home market leases do not constitute sales since there are no terms contemplating transfer of ownership, no bargain purchase options, and none of the transactions has a term of even 75 percent of the estimated useful life of a forklift using the estimated actual useful life of nine years. Komatsu also argues that there is no need to look to the relatively small number of home market leases since the number of home market sales reported provides an ample basis for determining fair market value.

DOC Position: Shortly before the preliminary determination, we discovered that certain respondents had lease transactions in the U.S. and home markets. Additional information on these transactions was requested and provided. While we have verified this information, we have not used lease transactions in making fair value comparisons.

This is the first instance in which the Department has had the opportunity to examine lease transactions to determine whether they should be treated as sales, pursuant to section 731 of the Act, as amended. Although interested parties have suggested several different methods to use in determining whether a lease transaction should be considered equivalent to a sale, we do not believe that the relevant factors have been sufficiently addressed in this case to warrant the selection of a standard that would apply in future cases. Moreover, the number of lease transactions that might be considered equivalent to sales is very small. Even without the lease transactions, we have been able to make fair value comparisons for every U.S. sale.

Comment 94: Petitioners contend that the Department should use the interest rate associated with the Komatsu's short-term U.S. borrowings during the period of investigation to calculate credit expenses on ESP sales. Petitioners further maintain that, even if there were no U.S. borrowing during the period of investigation, the Department has the authority to use the U.S. prime rate rather than an overseas rate. In support of this position, petitioners cite the *Final Determination of Sales at Less Than Fair Value: 64K Dynamics Random Access Memory Components from Japan* (51 FR 15943, April 29, 1986). Petitioners further argue that Komatsu's U.S. credit expenses should not be offset by overdue payment charges because Komatsu was unable to prove that such charges were paid.

Komatsu contends that, because Komatsu Forklift Inc. (KFI) ordinarily receives payment from its dealers well before it (KFI) is obligated to pay Komatsu Forklift Co., Ltd. (KFC), the Japanese parent company, credit expenses associated with U.S. sales are incurred by KFC in Japan. Therefore, the Department should use KFC's verified short-term borrowing rate in calculating the credit expense on U.S. sales. Komatsu cites *Certain Welded Carbon Steel Pipe and Tube from Turkey: Final Determination of Sales at Less Than Fair Value* (51 FR 13044, April 17, 1986) in arguing that the use of U.S. interest rates on U.S. sales is appropriate only when the Department has verified that U.S. sales have been financed with borrowings in the United States. Komatsu also argues that KFI's borrowings in the United States were for short-term needs (*e.g.*, overnight loans) and cannot be construed as borrowings to finance sales.

DOC Position: For the period in which Komatsu had U.S. borrowings, we have used a U.S. interest rate to reflect the cost of borrowing in the United States. However, for the period in which Komatsu had no borrowings in the United States, we determined that the most appropriate interest rate was the rate incurred on KFC's short-term borrowings in Japan because the parent company in Japan, in effect, bore the expense of financing the sale.

Comment 95: Petitioners contend that the Department should reject Komatsu's claim for certain expenses on home market sales because they are comprised primarily of normal pre-sale services and are not requested by a customer in the ordinary course of business and because expenses related to U.S. sales were included in the amount reported. Petitioners further argue that these expenses should be included as part of the cost of production and should not be deducted from foreign market value as either a direct or an indirect selling expense. In addition, petitioners contend that Komatsu's revised data for these expenses should be disallowed because these expenses have not been verified, were not submitted properly, and have been increased without explanation from the pre-verification submission to the post-verification submission.

Komatsu contends that certain home market expenses for final preparation of a forklift prior to delivery to a customer, which Komatsu characterizes as

necessary to place the merchandise in a condition ready for delivery, should be treated as direct selling expenses. Komatsu argues that, at a minimum, amounts paid to outside contractors for these services should be deducted from the home market price.

DOC Position: These home market pre-sale expenses do not include expenses related to U.S. sales, as a misstatement in the verification report may have led petitioners to believe. Because of discrepancies in the reporting of these charges subsequent to verification, we have disallowed them as an adjustment in the home market. We have included the amounts paid to outside contractors for certain services in the calculation of the cost of production.

Comment 96: Petitioners contend that, because some of Komatsu's home market sales were made by a related dealer to a related sub-dealer, Komatsu should have reported the sales by the sub-dealer to the end-user.

DOC Position: We agree and have not used these sales as home market comparisons.

Comment 97: Petitioners contend that Komatsu has provided no substantive evidence to support its assertion that "direct shipment" sales are purchase price transactions. Therefore, the Department should treat such sales as ESP transactions in the final determination and impute all additional ESP selling and movement expenses to these sales.

DOC Position: We disagree. At verification, Komatsu was able to substantiate its claim that these sales were properly classified as purchase price transactions and we have treated them as such for purposes of this determination.

Comment 98: Petitioners contend that KFI has incurred a bad debt expense during the period of investigation. Therefore, the Department should determine the rate at which KFI is accruing balances in its allowances for doubtful accounts and apply this rate to sales during the period of investigation as an indirect selling expense on U.S. sales. Petitioners further argue that the Department should disallow Komatsu's home market claim for indirect selling expenses because Komatsu failed to explain the discrepancies between its bad debt claim and certain other accounts.

DOC Position: The Department considers bad debts related to sales of the subject merchandise to be a selling expense. However, in the case of Komatsu, we found at verification that even though the company set aside funds in a reserve for doubtful accounts, it did not incur any bad debt expense on sales of forklifts during the period of investigation.

Comment 99: Petitioners contend that the Department should include all of the repossessed forklifts reported in Komatsu's U.S. sales database because: (1) The forklifts repossessed from dealers had not reached an end-user and, therefore, cannot be considered used; and (2) Komatsu failed to demonstrate that the forklifts repossessed from end-users were truly used.

Komatsu contends that a small number of used forklifts which it resold in the United States should be excluded from the investigation because they cannot be sold as, or compete with, new forklifts.

DOC Position: We verified that the forklifts referred to by petitioners were reconditioned and resold as used forklifts. Furthermore, we have not included used, demonstration, or reconditioned forklifts in our calculation of sales at less than fair value.

Comment 100: Mifran-Boman, an interested party, contends that it is not reasonable to give Sanki a separate duty rate since it is not a manufacturer of the subject merchandise.

DOC Position: We examined the sales of Sanki because of petitioners' allegation that manufacturers in Japan might be selling new forklifts to resellers which, in turn, sell the forklifts as used to unauthorized U.S. dealers. In an antidumping duty investigation, the Department may select as respondents those companies that manufacture or export the subject merchandise to the United States. As an exporter, unrelated to any of the manufacturers under investigation, Sanki qualified as a respondent in this case. Therefore, we have assigned Sanki a separate duty rate in this determination.

Comment 101: Petitioners contend that certain export sales reported by Sanki also appear in the home market database of another respondent in this investigation. Therefore, the Department should eliminate these sales from that respondent's database and use new comparison sales or constructed value as the basis for foreign market value.

DOC Position: We have verified that the sales reported by the respondent manufacturer qualify as legitimate home market sales. The respondent manufacturer had no knowledge that the forklifts would eventually be exported to the United States. Even though the same forklifts were subsequently exported by Sanki, there is no evidence linking the respondent manufacturer's home market sales and Sanki's export sales. As such, we have not deleted these sales from the manufacturer's home market database.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of forklifts from Japan that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall continue to require on all entries a cash deposit or the posting of a bond equal to the estimated average amounts by which the foreign market value of forklifts from Japan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin (percent)
Toyota Motor Corp.	17.29
Nissan Motor Co., Ltd.	51.33
Komatsu Forklift Co., Ltd.	47.73
Sumitomo-Yale Co., Ltd.	51.33
Toyo Umpanki Co., Ltd.	51.33
Sanki Industrial Co., Ltd.	13.65
Kasagi Forklift, Inc.	56.81
All others	39.50

As a result of our affirmative critical circumstances determination with respect to Nissan and TCM, the retroactive suspension of liquidation ordered on Nissan and TCM will remain in effect. However, because our final critical circumstances determination is negative for the other respondents and all other companies, the retroactive suspension of liquidation ordered at the time of the preliminary determination with respect to all companies other than Nissan and TCM is terminated. All cash deposits or bonds placed on entries made by all companies other than Nissan and TCM prior to November 24, 1987, shall be refunded.

This suspension of liquidation covers imports of forklifts meeting the definition outlined in the "Scope of Investigation" section of this noticed. If, at the time of entry into the United States, the importer can demonstrate to the satisfaction of the U.S. Customs Service that the forklift was used, as defined in the section of this notice entitled "Used Forklift Issue," that forklift will be exempt from the suspension of liquidation and any cash deposit or bonding requirements.

In our preliminary determination, we required a cash deposit or bond on all forklifts manufactured less than three

years prior to the date of entry. Given that we have clarified the definition of a used forklift, all cash deposits or bonds placed on used forklifts manufactured in a calendar year at least three years prior to the year of entry into the United States shall be refunded if the importer establishes to the satisfaction of the U.S. Customs Service that the forklift is used as defined in the "Used Forklift Issue" section of this noticed.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Acting Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officers to assess an antidumping duty on forklifts from Japan entered or withdrawn from warehouse, for consumption, after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

April 7, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-8215 Filed 4-14-88; 8:45 am]

BILLING CODE 3510-DS-M

Transportation and Related Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held May 3, 1988 at 9:30 a.m., Room 12138, the Federal Building, 450 Golden Gate Avenue, San Francisco, California. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

General Session

1. Opening Remarks by the Chairman.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Committee Charter Objectives, and Relationships with Other Government Working Groups.
5. 1987 Committee Accomplishments, and the 1988 Plan.
6. Discussion of Briefing Presented to Aerospace Industries Association.
7. Briefing on Relationships Between the Militarily Critical Technologies List (MCTL) and COCOM.
8. New Business.

Executive Session

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

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 17, 1986, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC.

For further information or copies of the minutes call Ruth D. Fitts, 202-377-4959.

Date: April 8, 1988.

Betty Anne Ferrell,

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

[FR Doc. 88-8311 Filed 4-14-88; 8:45 am]

BILLING CODE 3510-DT-M

East Orange VA Medical Center, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 87-057. Applicant: East Orange VA Medical Center, East Orange, NJ 07019. Instrument: Electron Microscope with Accessory, Model H-6010. Manufacturer: Nissei Sangyo America, Ltd., Japan. Intended Use: See notice at 53 FR 4866, February 18, 1988. Instrument Ordered: March 18, 1986.

Docket No.: 87-093. Applicant: VA Medical Center, Denver, CO 80220. Instrument: Electron Microscope. Manufacturer: N.W. Philips, The Netherlands. Intended Use: See notice at 53 FR 4866, February 18, 1988. Instrument Ordered: July 24, 1986.

Docket No.: 87-283R. Applicant: Naval Hospital San Diego, San Diego, CA 92134-5000. Instrument: Electron Microscope, Model EM 109T. Manufacturer: Carl Zeiss, West Germnay. Intended Use: See notice at 52 FR 1812, January 22, 1988. Instrument Ordered: August 15, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-8341 Filed 4-14-88; 8:45 am]

BILLING CODE 3510-DS-M

Hawaii Institute of Geophysics, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 87–267R Applicant: Hawaii Institute of Geophysics, Honolulu, HI 96813. Instrument: Field Portable Remote Radon Detector, Model Alphameter. Manufacturer: Alpha Nuclear Cororation, Canada. Intended Use: See notice at 52 FR 32824, August 31, 1987. Reasons for This Decision: The foreign instrument provides for continuous measurement of parent radionuclide concentrations at remote locations for 24 hour periods over several days.

Docket No.: 88–035. Applicant: University of Utah, Salt Lake City, UT 84112. Instrument: Electron Microprobe, Model CAMEBAX SX 50. Manufacturer: Cameca, France. Intended Use: See notice at 52 FR 48557, December 23, 1987. Reasons for This Decision: The foreign instrument provides image analysis combining x–ray, electron, cathodoluminescence signals and electron beam currents of 10^{-6} to 10^{-12}amperes.

Comments: None received.

Decision Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88–8342 Filed 4–14–88; 8:45 am]

BILLING CODE 3510–DC–M

The Pennsylvania State University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 88–058. Applicant: The Pennsylvania State University, University Park, PA 16802. Instrument: Langmuir Trough (Balance). Manufacturer: Joyce Loebl, United Kingdom. Intended Use: See notice at 53 FR 1811, January 22, 1988. Reasons for This Decision: The foreign instrument provides complete programmability, calibration, monitoring, graphical display and comparison of results of the film deposition process.

Docket No.: 88–072. Applicant: University Corporation for Research, Boulder, CO 80303. Instrument: Mass Spectrometer System, Model Delta E. Manufacturer: Finnigan MAT GmbH, West Germany. Intended Use: See notice at 53 FR 4866, February 18, 1988. Reasons for This Decision: The foreign instrument provides a multielement multicollector system capable of measuring $^{13}C/^{12}C$, $^{15}N/^{14}N$, $^{18}O/^{16}O$, $^{34}S/^{32}S$ in sequence at high precision without breaking vacuum.

Docket No.: 88–077. Applicant: Massachusetts Institute of Technology, Cambridge, MA 02139. Instrument: Inductively Coupled Plasma/Mass Spectrometer, Model PlasmaQuad. Manufacturer: VG Instruments, United Kingdom. Intended Use: See notice at 53 FR 4866, February 18, 1988. Reasons for This Decision: The foreign instrument is capable of detecting elements, isotopes or impurities down to concentrations of ten parts per trillion.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88–8343 Filed 4–14–88; 8:45 am]

BILLING CODE 3510–DS–M

University of California, Los Angeles, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87–251. *Applicant:* University of California, Los Angeles, Los Angeles, CA 90024–1786. *Intended Use:* See notice at 52 FR 32823, August 31, 1987.

Docket Number: 87–271. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02142. *Intended Use:* See notice at 52 FR 32825, August 31, 1987.

Docket Number: 88–002. *Applicant:* Baylor College of Medicine, Houston, TX 77030. *Intended Use:* See notice at 52 FR 43219, November 10, 1987.

Docket Number: 88–015. *Applicant:* USDA/ARS Children's Research Center, Baylor College of Medicine, Houston, TX 77030. *Intended Use:* See notice at 52 FR 46639, December 9, 1987.

Instrument: Gas-Isotope Ratio Mass Spectrometer, Model Delta E.

Manufacturer: Finnigan MAT Corporation, West Germany. *Advice Submitted by:* The National Institutes of Health, March 15, 1988.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The foreign instruments provide: (1) An internal precision of 0.01% for 100 bav μl samples of CO_2, (2) a six-cup multicollector system, and (3) a computer-controlled sample preparation and inlet system. The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent

scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-8344 Filed 4-14-88; 8:45 am]

BILLING CODE 3510-DS-M

University of Nevada—Reno, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 88-021. *Applicant:* University of Nevada, Reno, NV 89557-0047. *Instrument:* Modulated Transducer and Signal Processing System. *Manufacturer:* Lloyd Instruments, PLC., United Kingdom. *Intended Use:* See notice at 52 FR 46640, December 9, 1987. *Reasons for This Decision:* The foreign instrument provides integrated measurement and control of strain, displacement, velocity, acceleration, pressure flow, fluid level and other parameters from modular transducer test beds. *Advice Submitted by:* National Bureau of Standards, February 23, 1988.

Docket Number: 87-156. *Applicant:* Good Samaritan Hospital and Medical Center, Portland, OR 97029. *Instrument:* Electronic Laboratory Interface, Model 1401. *Manufacturer:* Cambridge Electronic Design Ltd., United Kingdom. *Intended Use:* See notice at 52 FR 15527, April 29, 1987. *Reasons for This Decision:* The foreign instrument provides programmed multi-channel processing of neural action potentials. *Advice Submitted by:* National Institutes of Health, June 25, 1987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health and National Bureau of Standards advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 88-8345 Filed 4-14-88; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by A. Paul King From an Objection by the New Jersey Department of Environmental Protection

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Dismissal of Appeal.

On June 30, 1987, the Department of Commerce (Department) received a Notice of Appeal from A. Paul King under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR Part 930, Subpart H (1987). The appeal is taken from an objection by the New Jersey Department of Environmental Protection (State) to the Appellant's consistency certification for U.S. Army Corps of Engineers Permit Applicant No. 86-1586-12, under section 10 of the River and Harbor Act of 1899, for filling of wetlands to construct a single-family home in Waretown, New Jersey.

On October 5, 1987, a stay of this appeal was granted pending negotiations with the State. This stay expired on December 30, 1987. At the expiration of this stay, the appeal automatically resumed and a briefing schedule was established. The Appellant's brief and supporting data were due no later than January 29, 1988. The Department has not received the information which was due January 29, 1988.

The Secretary has dismissed the appeal for good cause pursuant to 15 CFR 930.128. A. Paul King is barred from filing another appeal from the New Jersey Department of Environmental Protection's objection to the aforementioned activities.

FOR ADDITIONAL INFORMATION CONTACT: Cynthia L. Mackey, Attorney-adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673-5200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

Dated: April 12, 1988.

James W. Brennan,

Acting General Counsel.

[FR Doc. 88-8295 Filed 4-14-88; 8:45 am]

BILLING CODE 3510-08-M

National Marine Fisheries Service and U.S. Fish and Wildlife Service; Emergency Striped Bass Research Study; Joint Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss progress on the Emergency Striped Bass Research Study as authorized by the amended Anadromous Fish Conservation Act (Pub. L. 96-118).

DATE: The meeting will convene on Friday, May 20, 1988, at 10:00 a.m., and will adjourn at approximately 3:00 p.m. The meeting is open to the public.

ADDRESS: Room 7000-A, Department of the Interior, C Street between 18th and 19th Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, Office of Fisheries Conservation and Management, National Marine Fisheries Service, Washington, DC 20235. Telephone: (202) 673-5256.

Date: April 11, 1988.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management.

[FR Doc. 88-8296 Filed 4-14-88]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Lower Level Conflict Task Force will meet June 8-9, 1988 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to the employment of Naval forces in armed conflict with third world adversaries and related intelligence. These matters

constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Dated: April 12, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 88–8350 Filed 4–14–88; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet May 25–26, 1988, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda for the meeting will consist of discussions of key issues related to national security policy, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Date: April 12, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 88–8351 Filed 4–14–88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Meeting

AGENCY: Intergovernmental Advisory Council on Education, Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Intergovernmental Advisory Council on Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: May 10, 1988; 2:00 p.m.–5:00 p.m.

ADDRESS: The Grand Hyatt, 1000 H Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Gwen A. Anderson, Acting Executive Director, Intergovernmental Advisory Council on Education, Room 3036, 400 Maryland Avenue SW., Washington, DC 20202, 732–3844.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education was established under section 213 of the Department of Education Organization Act (20 U.S.C. 3424). The Council was established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The meeting is open to the public. The proposed agenda includes:

—Old Business
—New Business
—Election of Executive Committees

Records are kept of all Council proceedings, and are available for public inspection at the Office of the Intergovernmental Advisory Council on Education, Room 3036, 400 Maryland Avenue SW., Washington, DC 20202, from the hours of 9:00 a.m. to 5:00 p.m.

Dated: April 11, 1988.

Peter R. Greer,

Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 88–8246 Filed 4–14–88; 8:45 am]

BILLING CODE 4000-01-M

National Board of the Fund for the Improvement of Postsecondary Education; Closed Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education, Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: May 5, 1988 at 8:00 a.m. to May 6, 1988 at 6:00 p.m.

ADDRESS: Georgetown Marbury Hotel, 3000 M Street NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Charles H. Karelis, Director, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue SW., Room 3100, ROB #3, Washington, DC 20202 (202–245–8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants of a given kind.

The meeting of the National Board is closed to the public. The meeting is for the purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program.

The meeting of the National Board will be closed to the public from 8:00 a.m., May 5 until the conclusion of the agenda, approximately 6:00 p.m., May 6. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and under exemptions (4) and (6) of 5 U.S.C. 552b(c) (Pub. L. 94–409). The review and discussions of the applications and the qualifications of proposed staff may disclose commercial or financial information obtained from a person and privileged or confidential or which would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th and D Streets SW., Washington, DC 20202 from the hours of 8:00 a.m. to 4:30 p.m.

Dated: April 8, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88-8271 Filed 4-14-88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Oil and Gas Reserve System Forms; Request for Comments

AGENCY: Energy Information Adminsitration, DOE.

ACTION: Request for comments on the extension of the Oil and Gas Reserve System Forms.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Energy Information Administration (EIA), as required by the Paperwork Reduction Act of 1980, conducts a consultation program to provide the general public with the opportunity to comment on proposed and continuing reporting forms. This program helps to ensure that requested data are provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be assessed.

At this time EIA solicits comments on the extension of its Oil and Gas Reserve System forms for 3 years. The three forms which constitute the Oil and Gas Reserve system are described in the Supplementary Information Section of this Notice. They are the Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves," the Form EIA-23P, "Oil and Gas Well Operator Update Report," and the Form EIA-64A, "Annual Report of the Origin of Natural Gas Liquids Production." Interested persons are asked to review these forms, and provide comments to the contact person described below.

DATE: Written comments must be received by EIA on or before May 16, 1988.

ADDRESS: Comments should be sent to Mr. Paul Chapman, Dallas Field Office, Office of Oil & Gas, Energy Information Administration, 1114 Commerce Street, Room 804, Dallas, Texas 75242-2899. Telephone (214) 767-2200.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the forms and instructions, contact Paul Chapman at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with provisions of the Department of Energy Organization Act (Pub. L. 95-91), the Energy Information Administration (EIA) is responsible for carrying out comprehensive national energy data programs, including the compilation and dissemination of economic and statistical information. EIA's Oil and Gas Reserves system is designed to provide information for use by the Congress, Federal and State agencies, industry, and other interested parties on the status of proved reserves of crude oil, natural gas and lease condensate. In keeping with its responsibilities, EIA is planning to request a 3 year extension of the three forms used to gather information for this system. EIA does not proposed to make changes to any of these forms.

The Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves," is designed to collect information on the proved reserves of crude oil, natural gas, and lease condensate from a sample of operators of domestic crude oil and/or gas wells. All data are reported on a total operated basis. The total operated reporting basis of schedule A includes total reserves and production associated with wells operated by an individual operator. Schedule B of the form collects footnote or anecdotal information about changes to the data.

The Form EIA-23P, "Oil and Gas Well Operator Update Report," is designed to determine the status (active or inactive) and approximate level of production for domestic oil and gas well operators currently on the operator frame for the Form EIA-23. Removal of inactive firms and knowledge of the approximate size of active operators is necessary to reduce both the sample size and the sampling errors of future EIA-23 surveys.

Form EIA-64A, "Annual Report of the Origin of Natural Gas Liquids Production," is designed to collect information on the volume of natural gas received and the natural gas liquids extracted at gas processing plants, by areas of origin, and the total gas shrinkage resulting from the natural gas liquids extracted by the plants.

II. Request for Comments

EIA invites the public to comment on this proposal within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses. When commenting, please indicate the form(s) to which your comments apply.

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, would you require to complete and submit the required form(s)?

E. What is the estimated cost of completing the form(s), including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form(s) be improved?

G. Do you know other Federal, State or local agencies that collect similar data? If you do, specify the agency, the data elements, and the means of collection.

As a Potential Data User

A. Can you use data at the levels of detail indicated on the form(s)?

B. For what purposes would you use the data? Be specific.

C. How could the form(s) be improved to better meet your specific needs?

D. Are there alternative sources of data? Do you now use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments on the need for the collection of this information. Comments or summaries of comments will be provided in EIA's submission to the Office of Management and Budget requesting a 3-year extension of these data collections and will become a matter of public record.

Statutory Authority: Sections 5 (a) and (b), 13 (a) and (b), and 52 of Public Law (93-275), Federal Energy Administration Act of 1974 as amended (15 U.S.C. 764 (a) and (b), 772 (a) and (b), and 790 a).

Issued in Washington, DC April 11, 1988.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 88-8357 Filed 4-14-88; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Intent To Prepare an Environmental Assessment and Conduct Scoping Meetings; Sidney-North Yuma 230-KV Transmission Line Project, Colorado and Nebraska

AGENCY: Western Area Power Administration, DOE.

ACTION: Public notice and opportunity to comment.

SUMMARY: Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969 (NEPA), the Department of Energy (DOE), Western Area Power Administration (Western), intends to begin preparation of an environmental assessment (EA) to evaluate the environmental effects of the proposed construction, operation, and maintenance of a new 230-kilovolt (kV) transmission line between the Sidney Substation, Nebraska, and the North Yuma Substation in Colorado, a distance of approximately 80–90 miles. The project is know as the Sidney-North Yuma 230-kV Transmission Line Project (Project) and will be located in the counties of Logan, Washington, and Yuma in Colorado and Cheyenne County in Nebraska. Western will conduct scoping meetings to inform agencies and the public of the Project and to solicit comments that will assist in identifying issues and concerns to be addressed during the environmental studies for the EA. The public scoping meetings will be held in Sidney, Nebraska, and Yuma and Sterling, Colorado, on May 3, 4, and 5, 1988, respectively.

DATES: Comments must be submitted on or before May 27, 1988.

ADDRESS: Send questions, comments, and suggestions to: Mr. Mark N. Silverman, Area Manager, Western Area Power Administration, Loveland Area Office, P.O. Box 3700, Loveland, CO 80539.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Melander, 303–490–7231.

SUPPLEMENTARY INFORMATION: Western owns a major portion of the transmission system in the northeastern portion of Colorado. The system has deficiencies because the loads exceed the capability of the system. In the event of a single, major line outage in the region, about 50 megawatts (MW) of load must be shed in northeastern Colorado to prevent cascading outages, or the Sidney Direct Current Tie must be automatically reduced from 200 MW to 20 MW. These remedial actions must be initiated to avoid major system outages.

Western initiated the Northeastern Colorado Joint Transmission Planning Study (Study) to identify solutions to these deficiencies. The Study participants include Western, Public Service Company of Colorado, Tri-State Generation and Transmission Association, Inc., and the Nebraska Municipal Power Pool. The results of the study indicate that the Project is the best solution to resolve the system deficiencies. The Project would increae the load serving capability in eastern Colorado by 150 MW.

The EA will comprehensively evaluate the effects on the natural, human, and cultural environments that could be caused by the construction, operation, and maintenance of the proposed transmission line and terminal facilities. The EA will consider air, earth, biological, and cultural resources; floodplains and wetlands; land uses; visual characteristics; socioeconomics; and electrical effects. Alternatives that will be addressed in the EA include: no action; energy conservation; and system, design, construction, and location alternatives. Completion of the EA is tentatively scheduled for February of 1989.

Integral to the environmental process is the active solicitation of comments from various Federal, State, county, and local agencies, and interested organizations and individuals by means of a comprehensive public involvement program. The intent of the public involvement program is to assure that the most accurate and current environmental information and public opinion are incorporated into planning and decision making. Western will conduct public scoping meetings to identify the scope of the issues and concerns to be addressed in the EA.

Interested parties are encouraged to attend the meetings scheduled on the dates and locations listed below:

1. May 3, 1988, at City Council Chambers, City Hall, 1113 13th Avenue, Sidney, Nebraka, at 7 p.m.

2. May 4, 1988, at City Council Chambers, City Hall, 221 South Main Street, Yuma, Colorado, at 7:00 p.m.

3. May 5, 1988, at the Park Inn, Interstate Highway 76 and East Highway 6, Sterling, Colorado, at 7:00 p.m.

All interested agencies, organizations, and individuals are invited to submit questions, comments, and suggestions regarding the scope of the Project to the address provided above. Those interested in receiving information over the course of the Project should send their names and addresses to be included on the Project mailing list. Other opportunities will be offered to comment during the environmental studies for the Project.

The proposed terminals for the Project are located on opposite sides of the South Platte River. The Project would thus need to cross the floodplain of the river in Logan County, Colorado. In accordance with 10 CFR 1022.14 of the DOE Procedures for Floodplain/Wetlands Review, comments will be accepted concerning the proposed crossing of the floodplain of the South Platte River.

The results of the studies will dictate whether or not an environmental impact statement (EIS) will be required. If an EIS should be required, the EA will be completed in sufficient detail to support the completion of an EIS. Any comments received on the scope of alternatives and impacts as a result of this notice and the public scoping meetings would be considered in an EIS, if required. If the EA satisfactorily addresses all issues and concerns and it is determined that an EIS is not required, the decision will be documented in a finding of no significant impact.

Issued at Golden, CO, April 4, 1988.

William H. Clagett,

Administrator.

[FR Doc. 88-8356 Filed 4-14-88; 8:45 am]

BILLING CODE 6450-01-M

Amistad and Falcon Projects; Rate Order

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a Rate Order—Amistad and Falcon Projects.

SUMMARY: Notice is given of Rate Order No. WAPA-37 of the Under Secretary of the Department of Energy (DOE) for placing a rate extension into effect on an interim basis beginning on June 8, 1988, for power marketed by the Western Area Power Administration (Western) from the Amistad and Falcon Projects under Contract No. 7-07-50-P0890.

The Amistad and Falcon Dams are international storage projects located on the Rio Grande River between Texas and Mexico. Since June 8, 1983, power from these dams has been marketed by Western under the terms of Contract No. 7-07-50-P0890. The terms of that contract were approved by the Federal

Power Commission, predecessor to the Federal Energy Regulatory Commission (FERC), for a 5-year period beginning June 8, 1983, by Docket No. E-9566 on August 12, 1977.

Supplement No. 1 to Contract No. 7-07-50-P0890 was executed on April 10, 1986.

According to article 9(a) of that contract, Western calculates an annual installment, to be paid by the South Texas Electric Cooperative, Inc., and the Medina Electric Cooperative, Inc. (STEC/MEC), for the power generated at the Amistad and Falcon Powerplants, on or before August 31 of the year preceding the fiscal year to which it pertains.

Each annual installment pays the appropriate amortized portion of the United States investment in the Falcon and Amistad hydroelectric facilities with interest, and the associated operation, maintenance, and administrative costs.

This repayment schedule is not dependent upon the power and energy made available for sale or the rate of generation each year.

Western will continue to provide STEC/MEC with a revised exhibit A by August 31 of each year using the same methodology.

EFFECTIVE DATE: The rate extension will become effective on June 8, 1988.

FOR FURTHER INFORMATION CONTACT:

Ms. Marlene Moody, Deputy Area Manager, Salt Lake City Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524-5493

Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-1535

Mr. Ron Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-5581.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated to the Administrator of Western the authority to develop long-term power and transmission rates; to the Under Secretary of the DOE the authority to confirm, approve, and place such rates in effect on an interim basis; and to the FERC the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates.

Rate Order No. WAPA-37 confirming and approving a rate extension on an interim basis is hereby issued, and the rate will be promptly submitted to the FERC for confirmation and approval on a final basis.

Issued at Washington, DC, April 1, 1988.

Joseph F. Salgado,

Under Secretary.

In the Matter of Western Area Power Administration—Amistad and Falcon Projects Power Rate, Rate Order No. WAPA-37.

Order Confirming and Approving a Rate Extension on an Interim Basis

April 1, 1988.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.*, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Falcon Project and the Amistad Project, were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and as amended on May 30, 1986 (51 FR 19744), the Secretary of Energy delegated (1) the authority to develop power and transmission rates to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place in effect such rates on an interim basis to the Under Secretary of DOE; and (3) the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove those rates to the Federal Energy Regulatory Commission (FERC). This rate extension is issued pursuant to the delegation to the Administrator of Western and the Under Secretary and the rate adjustment procedures in 10 CFR Part 903, published in the **Federal Register** at 50 FR 37835 on September 18, 1985.

Background

Project History

On August 1, 1977, the Federal Power Commission, pursuant to the Falcon Dam Act of 1954, ch. 310, 68 Stat. 255 (1954), approved rates contained within the original contract between Reclamation and the Central Power and Light Company (CPL). Said contract was to remain in effect "until the date on which the Amistad Powerplant is ready to deliver power or December 31, 1982, whichever date occurs first." The rate for power in the contract was 14 mills per kilowatthour.

On August 12, 1977, in Docket No. E-9566, the Federal Power Commission approved a rate formula contained in Contract No 7-07-50-P0890, between Reclamation and two electric cooperatives. The South Texas Electric Cooperative, Inc. (STEC), and the Medina Electric Cooperative, Inc. (MEC), agreed to purchase the output of the Amistad and Falcon Powerplants for a 50-year period, beginning when initial electric service became available from Amistad. The cooperatives agreed to take all Amistad and Falcon power and to pay the United States the following:

1. The amount necessary to amortize within the remaining period the unpaid investment costs of the Falcon power facilities and the penstocks at Amistad Dam;

2. The amount necessary to amortize within a 50-year period the investment costs of the Amistad power facilities, exclusive of the penstocks; and

3. The projects' annual operation, maintenance, and replacement costs, and the associated administrative costs of the U.S. Section of the International Boundary and Water Commission (U.S. Section) and Reclamation.

The power marketing functions of Reclamation were transferred to Western on October 1, 1977, and Western became responsible for the administration of both of the above contracts.

Due to construction delays, the Amistad Powerplant was not operational until June 8, 1983. Western and CPL extended the original contract for marketing Falcon power from January 1, 1983, until the Amistad Powerplant was ready to deliver power.

Western held a public meeting on February 10, 1983, in Del Rio, Texas, to explain the methods used to determine the annual installment, to answer questions, and to receive comments and suggestions. In addition, a written comment period was opened February 2, 1983, and ended March 10, 1983.

Service under Contract No. 7-70-50-P0890 began June 8, 1983, when the Amistad Powerplant became operational.

Western, STEC, and MEC executed Supplement No. 1 to Contract No. 7-07-50-P0890 on April 10, 1986, to make refinements, updates, and clarification of the method for determining the annual installment, consistent with DOE Order No. RA 6120.2. Those clarifications were repayment of Falcon hydroelectric facilities within the remaining period, establishment of interest during construction at 7 percent, capitalization of major replacements and additions at the current interest

rate, and specification of the actual date of initial service as June 8, 1983.

Supplement No. 1 requires that the amount of each annual installment be established in advance by the contracting officer in consultation with the U.S. Section and submitted to the cooperatives as Exhibit A on or before August 31 of the year preceding the appropriate fiscal year in accordance with the following:

The amount of each annual installment shall be the sum of:

1. An annual installment, including interest, to amortize within the remaining period the unpaid United States investment in the Falcon hydroelectric facilities and in the penstocks at Amistad Dam;

2. An annual installment to amortize over a 50-year period the United States actual total investment costs, with interest, for hydroelectric power facilities, not including penstocks, at Amistad Dam to be under the jurisdiction of the U.S. Section, including the costs of engineering plans, supervision, administration of construction, and interest during construction; and

3. The annual operation, maintenance, replacement, and administration costs of the U.S. Section and the administration costs of Western related directly or indirectly to the United States power facilities at Amistad Dam and at Falcon Dam, provided that such costs shall be based on prudent and businesslike management practices and in accordance with established electric industry operation and maintenance practices.

The billing procedures contained in Supplement No. 1 require Western to submit bills to the cooperatives for each monthly payment on the annual installment on or before the 10th day of the month for which such payment is due. Payments are due and payable by the cooperatives on the first day of the following month.

Although paragraph 903.23(2) of 10 CFR Part 903, for rate extensions, does not require a consultation and comment period, nor public information or comment forums, Western held a meeting with the customers on February 12, 1988, in San Antonio, Texas, to discuss the rate extension, answer questions, and receive comments and suggestions. No significant issues were raised.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA), Council of Environmental Quality regulations (40 CFR Parts 1500–1508), and DOE guidelines (52 FR 47662), Western evaluated the rate extension in terms of its potential to affect the human environment. The rate extension is clearly not a major Federal action significantly affecting the quality of the human environment as it is merely an extension of 1977 contract terms. A memorandum to the file documenting this finding has been prepared, which completes NEPA compliance for this action.

Executive Order 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western has an exemption from sections 3, 4, and 7 of that order, and therefore will not prepare a regulatory impact statement.

Availability of Information

Information regarding this rate extension is available for public review in Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, Suite 2, Salt Lake City, Utah 84111; in the office of the Director, Division of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and in the Office of the Assistant Administrator for Washington Liaison, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Submission to FERC

The rate extension herein confirmed, approved, and place in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve and place in effect on an interim basis an extension of the rate provisions contained in Contract No. 7–07–50–P0890 and Supplement No. 1 to that contract effective on June 8, 1988. The rate provisions shall remain in effect on an interim basis pending FERC confirmation and approval of this or a substitute rate on a final basis or until suspended.

Issued in Washington, DC, April 1, 1988.

Joseph F. Salgado,

Under Secretary.

[FR Doc. 88–8359 Filed 4–14–88; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3366–5]

1987 Chesapeake Bay Agreement; Proposals for Review

The 1987 Chesapeake Bay Agreement signed by the Governors of Maryland, Virginia and Pennsylvania, the Mayor of the District of Columbia, the Chairman of the Chesapeake Bay Commission and the Administrator of the US Environmental Protection Agency for the Federal Government, requires that nine commitments be met in July 1988. Draft proposals to fulfill these commitments will be available for public review in libraries for a 30-day review period starting April 25. Four public meetings also will be held to brief citizens and receive their comments.

The July commitments include:

(1) A Baywide plan for stock assessment;

(2) A schedule for developing Baywide resource management strategies;

(3) A strategy to reduce nutrient loadings by 40 percent;

(4) A strategy to manage and control conventional pollutants;

(5) A strategy to reduce pollution from federal facilities;

(6) An inventory of present public access opportunities and a strategy to secure additional shorefront;

(7) A comprehensive research plan;

(8) A Baywide biological monitoring plan;

(9) A coordinated federal agencies work plan.

A Baywide communication plan also will be available for review.

Public meetings will be conducted:

May 5 at 10 a.m., 3rd Floor Conference Room, Barto Building, 3rd & State Streets, Harrisburg, PA; sponsored by PA State Conservation Commission, Chesapeake Bay Advisory Committee, and Citizens Program for the Chesapeake Bay, Inc. (CPCB)

May 9 at 7 p.m., General Assembly Building, Senate Rooms A & B, Richmond, VA; sponsored by CPCB, Central James River Basin Committee, and Shenandoah River Basin Committee

May 12 at 7 p.m., Lowe House Office Building, Environmental Matters Hearing Room, Annapolis, MD; sponsored by CPCB and Coastal Resources Advisory Committee

May 19 at 6 p.m. and May 20, 8:30 a.m. to 3:30 p.m., Omni Georgetown Hotel, 2121 P Street NW, Washington, DC; sponsored by the Citizens Advisory

Committee to the Chesapeake Executive Council

Citizens attending the meetings are encouraged to bring written comments. Written comments also may be submitted by mail to the EPA Chesapeake Bay Liaison Office, 410 Severn Avenue, Annapolis, Maryland 21403.

For more information, including locations of libraries which will have the documents, contact:

Maryland: Helene Tenner (301) 974–3382
Pennsylvania: Anne Swaim (717) 236–1006
Virginia: Ann Regn (804) 786–4500
District of Columbia: Patsy Harden (202) 783–3182
EPA: (301) 266–6873 or (215) 597–2447
Citizens Program for the Chesapeake Bay, Inc.: (301) 377–6270

Charles S. Spooner,

Director, Chesapeake Bay Liaison Office.

[FR Doc. 88–8303 Filed 4–14–88; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3366–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 28, 1988 through April 1, 1988 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D–AFS–L65114–00, Rating EC2, Umatilla National Forest, Land and Resource Management Plan, Implementation, Baker, Grant, Morrow, Umatilla, Union, Wallowa and Wheeler Counties, OR and Asotin, Columbia, Walla Walla and Garfield Counties, WA.

Summary: EPA believes that the level of detail and commitment for water quality monitoring and feedback mechanism are not commensurate with the sensitivity of the resources. The forest plan implementation process should include; a description of the data base for existing conditions; Best Management Practices and prescription development; selection of BMPs for specific activities; upgrading of BMPs or prescriptions to correct inaccurate predictions; on-site inspection and administration; detailed environmental monitoring and built-in feedback mechanisms.

ERP No. DS–FHW–E40572–AL, Rating EC2, Corridor X Highway Construction, Walker/Jefferson County Line to US 31, Additional Alternate Alignment Alternative, Funding, Birmingham Metropolitan Area, Jefferson County, AL.

Summary: EPA has concerns with noise impacts and a lack of any proposed abatement measures to offset these impacts.

Dated: April 12, 1988.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 88–8354 Filed 4–14–88; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3366–2]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed April 4, 1988 Through April 8, 1988 Pursuant to 40 CFR 1506.9.

EIS No. 880106, Draft, FHW, VA, US 288 Const., US 360/Hull Street to I–64, Funding, Section 10 and 404 and Coast Guard Permits, Chesterfield, Henrico, Goochland and Powhatan Counties, VA. Due: May 23, 1988, Contact: Robert L. Hundley (804) 786–4304.

The availability of this EIS should have appeared in the 4–8–88 **Federal Register**. The 45 day review period is calculated from 4–8–88.

EIS No. 880107, Draft, NPS, AK, Gates of the Arctic National Park and Preserve Wilderness Recommendations, Designation or Nondesignation, AK, Due: July 18, 1988, Contact: Linda Nebel (907) 257–2654.

EIS No. 880108, Draft, COE, NC, Wilmington Harbor Long Term Maintenance, Dredging and Disposal of Sediments, Implementation, New Hanover and Brunswick Counties, NC, Due: June 10, 1988, Contact: Frank Yelverton (919) 343–4640.

EIS No. 880109, Final, AFS, AZ, Kaibab National Forest, Land and Resource Management Plan, Implementation, Coconino, Yavapai and Mohave Counties, AZ, Due: May 16, 1988, Contact: Leonard A. Lindquist (602) 635–2861.

EIS No. 880110, DSuppl, COE, MI, Sault Ste. Marie Federal Facilities, Operation, Maintenance and Minor Improvements, Extension of Operations thru 31 January +2 Weeks and Additional Information, Implementation, Chippewa County, MI, Due: May 30, 1988, Contact: Donald Williams (313) 226–2208.

EIS No. 880111, Draft, COE, OH, Swan Creek Flood Protection Project, Implementation, Heatherdale-Lemond Drive Area, Lucus County, OH, Due: May 30, 1988, Contact: William Butler (716) 876–5454.

EIS No. 880112, Final, USN, VA, Empress II Oper., Electromagnetic Pulse Radiation Environment Simulator for Ships, Chesapeake Bay (West of Bloodsworth Island) and Atlantic Ocean (Virginia Capes Operating Area), off the coast of VA, Due: May 16, 1988, Contact: Ronald L. Dudley (804) 445–2306.

EIS No. 880113, Final, BPA, WA, ID, MT, WY, CA, NV, UT, NM, AZ, OR, Pacific Northwest/Pacific Southwest Intertie, Capacity Increase and Long Term Intertie Access Policy Development Plan, Implementation, WA, OR, ID, MT, WY, CA, NV, UT, NM and AZ, Due: May 16, 1988, Contact: Anthony R. Morrell (503) 230–5136.

Amended Notice

EIS No. 880105, DSuppl, CGD, NY, Davids Island Residential Development, Marina and Bridge Access from New Rochelle Mainland and Davids Island Construction, Updated Information and Design Modifications, Bridge and 404 Permits, City of New Rochelle, Long Island Sound, Westchester County, NY, Due: May 31, 1988.

Contact: Gary Kassof (212) 668–7994.

Published FR 04–08–88—Filing date reestablished. The 45 day NEPA review period is calculated from 04–15–88.

Dated: April 12, 1988.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 88–8355 Filed 4–14–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180774; FRL–3366–4]

Receipt of Application for an Emergency Exemption From Wyoming to Use Strychnine; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt.

SUMMARY: EPA has received a public health exemption request from the Wyoming Department of Agriculture (hereafter referred to as "Applicant") to use strychnine alkaloid (CAS 57–24–0) in egg baits for control of rabid skunks.

EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and, time permitting, to solicit public comment before making the decision whether to grant the exemption.

DATE: Comments must be received on or before May 2, 1988.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180774," should be submitted by mail to:

Information Service Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Room 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Room 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jim Tompkins, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (17 U.S.C. 136p), the Administrator may, at his discretion, exempt a State or Federal agency from any registration provision of FIFRA if he determines that emergency conditions exists which require such exemption.

The Applicant has requested the Administrator to issue a public health exemption for the use of strychnine in eggs to control rabid skunks. Wyoming has been authorized emergency exemptios for this use six times since 1974.

In 1972, EPA cancelled the registrations of strychnine products used for predator control, including the use of strychnine to control skunks (37 FR 5718). Therefore, the proposed use is subject to EPA's Subpart D regulations, 40 CFR 164.130 to 164.133, in addition to the regulations at 40 CFR Part 166 governing the issuance of exemptions under section 18.

The Administrator has previously determined that substantial new evidence does exist in connection with the pending registration request and the 1986 emergency exemption request, as published in the **Federal Register** of June 13, 1986 (51 FR 21617).

Accordingly, a hearing to reconcile whether to modify the prior cancellation order to permit the use of strychnine for controlling skunks to suppress rabies in areas where rabid animals have been found was held on October 7, 1986, as announced in the **Federal Register** of August 8, 1986 (51 FR 28623).

As a result of the hearing, the Order, suspending the registration of strychnine, sodium cyanide, and sodium fluoroaluminate ("1080") for predator uses, has been modified to permit the registration of strychnine to reduce populations of skunks as a means of suppressing the spread of rabies to humans and domestic animals.

The Applicant has applied, under section 3 of FIFRA, for registration of strychnine in egg baits to control rabid skunks. The Applicant in conjunction with the State of Montana is currently generating the data necessary to support the registration of this use of strychnine.

The Applicant has requested the use of strychnine for the purpose of suppressing local populations of skunks, the main carrier of rabies, thereby reducing the opportunity for exposure of humans, domestic animals, and susceptible wild species to rabies. The Applicant considers the incidence of rabies to be at a level which poses an unacceptable threat to public health.

The proposed control program involves use of strychnine egg baits which contain 0.035 gram of actual strychnine alkaloid.

Placement of strychnine treated eggs is limited to land within a 5-mile radius of a site where a laboratory-confirmed rabid skunk has been found. The number of strychnine egg baits may not exceed: 1,200 eggs in any treatment area, 150 eggs per any square mile, or two eggs per site. Strychnine egg baits will be placed in such skunk habitats as follows: skunk dens, holes, garbage dumps, road culverts, junk piles, and under non-occupied buildings. All strychnine egg baits will be stamped with the word "poison" in three locations and will contain green food coloring to warn people of their toxic nature. Bait will be covered at all times and checked no less than once a week. Warning signs will be posted at all points commonly used for access to the treatment area. Strychnine egg baits will be placed only on lands where written permission has been obtained from the landowner. Placement or removal of strychnine eggs baits will be under the direct supervision of certified commercial applicators of restricted use pesticides.

The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application that proposes use of a pesticide if such pesticide was the subject of a notice under section 6(b) of FIFRA and was subsequently cancelled and is intended for a use that poses a risk similar to the risk posed by the pesticide which was the subject of the notice. The regulations also provide for the opportunity for public comment.

Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this public health exemption.

Dated: April 1, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-8304 Filed 4-14-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59258; FRL-3365-7]

Toxic and Hazardous Substances; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemption,

provides a summary, and requests comments on the appropriateness of granting this exemption.

Written comments by:

T 88–8, 88–9, April 15, 1988.

ADDRESS: Written comments, identified by the document control number "(OPTS–59253)" and the specific TME number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Room L–100, 401 M Street SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 88–8

Close of Review Period. April 29, 1988.
Manufacturer. Confidential.
Chemical. (G) Tertiary amine salt.
Use/Production. (G) Catalyst; contained use. Prod. range: Confidential.

T 88–9

Close of Review Period. April 29, 1988.
Manufacturer. Confidential.
Chemical. (G) Tertiary amine salt.
Use/Production. (G) Catalyst; contained use. Prod. range: Confidential.

Date: April 8, 1988.

Steve Newburg-Rinn,

Acting Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

[FR Doc. 88–8165 Filed 4–14–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 5, 1988.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Terry Johnson, Federal Communication Commission (202) 623–7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: None
Title: Forecast of Investment Usage Report and Actual Usage of Investment Report
Form Number: FCC Forms 495–A and 495–B
Action: New collection
Respondents: Businesses or other for-profit
Frequency of Response: Annually
Estimated Annual Burden: 300 Responses, 12,000 Hours
Needs and Uses: The Forecast of Investment Usage Report (FCC Form 495–A) and Actual Usage of Investment Report (FCC Form 495–B) are needed to detect and correct forecast errors that could lead to significant misallocation of network plant between regulated and nonregulated activities. The Commission's purpose is to protect the regulated ratepayer from subsidizing the nonregulated activities of rate regulated telephone companies.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–8281 Filed 4–14–88; 8:45 am]

BILLING CODE 7712–01–M

Advisory Committee on Advanced Television Service; Planning Subcommittee

1. The Planning Subcommittee will hold its fourth meeting on: April 26, 1988, 9:30 a.m., National Association of Broadcasters, 1771 N Street NW., Washington, DC 20036.

2. The purpose of this meeting is to review working party final reports, discuss the Chairman's report to the Advisory Committee and define further work.

3. The agenda of the meeting is as follows:

a. Call to order by the Chairman
b. Opening remarks by Richard Wiley and Alex Felker
c. Adoption of the minutes of the third meeting
d. Review of the final Reports of each Working Party and Advisory Group Chairman. Each Chairman will make a brief presentation
e. Discussion of principal findings to be included in the Planning Subcommittee's Chairman's Report to the Advisory Committee
f. Definition of further work to be done to complete the Planning document for the Advisory Committee
g. Other business
h. Date and location of next meeting.

4. This meeting is open to the public.

5. Parties may submit written statements prior to or at the time of the meeting. Oral statements and discussion will be permitted under the direction of the Chairman.

6. For further information please contact: Chairman J.A. Flaherty, (212) 975–2213, or William Hassinger (202) 632–6460.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–8280 Filed 4–14–88; 8:45 am]

BILLING CODE 6712–01–M

Technical and Allocations Subgroups of Radio Advisory Committee; Joint Session

The Technical and Allocations Subgroups of the Advisory Committee on Radio Broadcasting will meet in joint session on Thursday, April 21, 1988, at the Headquarters of the National Association of Broadcasters, 1771 N Street NW., Washington, DC. The meeting will convene at 1:30 p.m. Please note that this is a half hour later than the customary meeting time.

At this joint meeting, the Subgroups will continue their consideration of:

—Improvement of the AM radio broadcast service;
—Preparations for the Second Session of the Regional Administrative Radio Conference on Expansion of the AM Band (RARC–88);
—Other business.

The Subgroups' meetings are continuing ones, and may be resumed after each session at such times and places as may be decided by the participants at publicly announced meetings. All meetings of the Radio Advisory Committee and its Subgroups are open to the public. All interested persons are invited to participate.

For further information, please call Wallace Johnson, Chairman of the Technical Subgroup, at (703) 824–5660, or Louis Stephens, Chairman of the Allocations Subgroup, at (202) 254–3394.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-8283 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1721]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

April 4, 1988.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC., or may be purchased from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions must be filed May 3, 1988. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Keokuk, Iowa) (MM Docket No. 86-416, RM-5112) Number of petitions received: 1

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-8284 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1723]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

April 7, 1988.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions must be filed May 3, 1988. See § 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Oxford and New Albany, Mississippi) (MM Docket No. 87-58, RM's 5408 & 5464) Number of petitions received: 1

Subject: Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations. (MM Docket No. 87-68) Number of petitions received: 1

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-8285 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Wade Axell, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Wade Axell, Grass Valley, CA.	BPH-851030MG	88-120
B. Eric R. Hilding	BPH-851020MH	
C. Bernadita Paulino San Nicolas-Obenauf.	BPH-851030MI	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to the particular applicant.

Issue Heading and Applicants

1. Financial, B
2. Air Hazard, C
3. Comparative, A, B, C
4. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-8322 Filed 4-14-88; 8:45 am]

BILLING CODE 7712-01-M

Applications for Consolidated Hearing; Celina Broadcasting, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. David and Joyce Goff d/b/a Celina Broadcasting, Celina, TN.	BPH-861217MB	88-121
B. John W. & Linda Hembree et al. d/b/a Clay County Broadcasting, Celina, TN.	BPH-861217MC	
C. Gary L. Wells, Celina, TN.	BPH-861217NH	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A,B,C
2. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW.,

Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-8323 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Roy Davis, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Roy Davis, East Ridge, TN.	BPH-870612MA	88-122
B. John H. Totten, Sr., and Jennie L. Totten, East Ridge, TN.	BPH-870612MD	
C. Michael J. Benns, East Ridge, TN.	BPH-870615MB	
D. Leonard & Diana Scott, d/b/a Highland Broadcasting Partnership, East Ridge, TN.	BPH-870615ME	
E. Virginia Ann Sattler, East Ridge, TN.	BPH-870615MM	
F. Rebecca Ann Fulton & Kathleen D. Walker, d/b/a Rebecca Radio of East Ridge, East Ridge, TN.	BPH-870615MU	
G. East Ridge FM Limited, Partnership East Ridge, TN.	BPH-870615MY	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, C, G
2. Comparative, A, B, C, D, E, F, G
3. Ultimate, A, B, C, D, E, F, G

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 88-8324 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Proceeding; Dean-Thomas Communications, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Robert L. Dean & Charles Thomas, Sr., d/b/a Dean-Thomas Communications, Bridgewater, VA.	BPH-860312MR	88-113
B. Mountain Tower, Bridgewater, VA.	BPH-860313MT	
C. Ronald L. Wilson, Bridgewater, VA.	BPH-860317ND	
D. Robert A. Jones, Bridgewater, VA.	BPH-860317NG	
E. College Town Radio Limited, Partnership, Bridgewater, VA.	BPH-860317NH	
F. Emmett M. Capper, d/b/a Bridgewater Broadcasters, Bridgewater, VA.	BPH-860317NI	
G. Kirkley Paige Beal, Bridgewater, VA.	BPH-860317NK	
H. Judith L. Randolph and Genesis Communications, Inc., Bridgewater, VA.	BPH-860317NF [1]	

[1] Dismissed herein.

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, C,F,G
2. Comparative, All
2. Ultimate, All

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-8325 Filed 4-14-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Family Stations, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Family Stations, Inc., Youngstown, OH.	BPED-850613MA	88-115
B. Christian Communications, Inc., Youngstown OH.	BPED-860512MK	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative-Noncommercial Education FM, A,B
2. Ultimate, A,B

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services,

Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 88–8326 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Froggy Bottom Television, et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Thaddeus Bishop, d/b/a Froggy Bottom Television, Danville, VA.	BPCT–861216IV	88–134
B. Freeman Borntreger, Danville, VA.	BPCT–870317KO	.....
C. AW Broadcasting, Danville, VA.	BPCT–870317KP	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A,C
Comparative, A,B,C
Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 88–8327 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

Application for Consolidated Hearing; Leonard James Giacone, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Leonard James Giacone, Vicksburg, MS.	BPH–851210ME	88–116
B. H & I Broadcasting, Ltd., Vicksburg, MS.	BPH–851212ME	
C. Bobby Bishop, Vicksburg, MS.	BPH–851216NH	
D. Clearwater Company, Vicksburg, MS.	BPH–851216NJ	
E. Julie N. Frew, Vicksburg, MS.	BPH–851216NJ	
F. Vicksburg FM Group Limited Partnership, Vicksburg, MS.	BPH–851216NK	
G. Radio Vicksburg, LTD., Vicksburg, MS.	BPH–851216NG [1]	
H. Vicksburg Broadcasting Foundation, Vicksburg, MS.	BPH–851216NL [1]	

[1] Previously dismissed.

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Site Availability, A
2. Environmental, C
3. Comparative, A,B,C,D,E,F
4. Ultimate, A,B,C,D,E,F

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–8328 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Ernest C. Miller, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, State, and city	File No.	MM Docket No.
A. Ernest C. Miller, Wauseon, OH.	BPH–860115MK	88–117
B. Charles J. Saltzman, Wauseon, OH.	BPH–860121MT	.....
C. Jane A. Filler, Wauseon, OH.	BPH–860123MV	.....
D. David Edward Knisely, Wauseon, OH.	BPH–860123MW	.....
E. Fulton Broadcasters, Wauseon, OH.	BPH–860123NS	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issus has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B
2. Comparative, A–E
3. Ultimate, A–E

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–8329 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Roy E. Henderson, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Roy E. Henderson d/b/a Publo Radio Broadcasting Service, Oro Valley, AZ.	BPH-861002TA	88-137
B. Sanchez Communication, Inc., Oro Valley, AZ.	BPH-861002TA	.....
C. Honero S. Pacheco, Oro Valley, AZ.	BPH-861002TC	.....
D. William N. Freeman, Oro Valley, AZ.	BPH-861002TD	.....
E. Hal S. Widsten, Oro Valley, AZ.	BPH-861002TE	.....
F. Classic Media, Inc., Oro Valley, AZ.	BPH-861002TF	.....
G. Buena Suerta Broadcasting Corp., Oro Valley, AZ.	BPH-861002TG	.....
H. O-V Communications, Oro Valley, AZ.	BPH-861002TH	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to the particular applicant.

Issue Heading and Applicant(s)

1. Environmental, F
2. Comparative, A–H
3. Ultimate, A–H

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW, Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–8330 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing, Trax Broadcasting, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Trax Broadcasting, Silver Springs, FL.	BPH-870629NE	88-119
B. Silver Springs Communications, Silver Springs, FL.	BPH-870630MS	.....
C. A.P. Walter, Jr., Silver Springs, FL.	BPH-870630MU	.....
D. Silver Springs Radio Communications, Ltd., Silver Springs, FL.	BPH-870630MW	.....
E. Silver Radio Partners, Silver Springs, FL.	BPH-870630MX	.....
F. Silver Springs Broadcasting, Inc., Silver Springs, FL.	BPH-870630MY	.....
G. Jim Johnson, Silver Springs, FL.	BPH-870630MZ	.....
H. Mark L. Wodlinger, Silver Springs, FL.	BPH-870630NC	.....
I. Silver Springs-Ocala Broadcasting, Inc., Silver Springs, FL.	BPH-870630NE	.....
J. Ocala Radio, Inc., Silver Springs, FL.	BPH-870630NG	.....
K. Sun Coast Communications Limited Partnership, Silver Springs, FL.	BPH-870630NH	.....
L. Rosalia Bianco, Silver Springs, FL.	BPH-870629MY [1]	.....

[1] Previously dismissed.

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A,E
2. Comparative, A–K
3. Ultimate, A–K

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–8331 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Turner Broadcasting & Communications System, et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Linda F. Turner, d/b/a Turner Broadcasting & Communications System, Marquette, MI.	BPCT-861222KM	88-133
B. William J. Kimble, et al., d/b/a Marquette Television Associates, Marquette, MI.	BPCT-870326KU	.....
C. John J. Garofalo, d/b/a Skyway Television, Ltd., Marquette, MI.	BPCT-870331LB	.....
D. Upper Peninsula Telecasting Corp., Marquette, MI.	BPCT-870331LY	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify

whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, B, C, D
Comparative, A, B, C, D
Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transciption Services, Inc. 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 88–8332 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. 87–2]

Additional Pleading Cycle Established on National Exchange Carrier Association, Inc., Relating to NECA Administrative Expenses

Released: April 6, 1988.

A notice of proposed rulemaking in CC Docket No. 87–2, the Commission's proceeding considering issues relating to the recovery of the administrative expenses of the National Exchange Carrier Association, Inc. (NECA), was released on January 16, 1987. The pleading cycle in that docket was completed on April 22, 1987. After the close of the pleading cycle, the Commission adopted several orders that modify the pooling arrangements and affect NECA's activities. On March 17, 1988, NECA filed Supplemental Comments in CC Docket No. 87–2 which state that the changes prescribed in these Commission orders should be reflected in the methodologies that allocate NECA's administrative expenses. NECA's supplemental comments suggest an alternative approach that would address those changes that have occurred, and that will occur, in NECA functions in the revised regulatory framework.

NECA proposes that its expenses be classifed as "Category I" (regulated interstate access activities) or "Category II" (other activities that are authorized but not mandated). Category I expenses would be further divided into three components: universal service fund/Lifeline, common line/exchange carrier support funds, and other NECA tariffs. The disaggregated Category I expenses would be recovered on the basis of the revenues associated with each of these activities.

Interested persons may file additional comments on the issues addressed in the NECA supplemental comments by April 29, and reply comments by May 13, 1988. Copies of the pleadings in CC Docket No. 87–2 and the NECA supplemental comments can be obtained from International Transcription Services Inc. (ITS), Suite 140, 2100 M Street NW., Washington, DC 20037, or by contacting Grace Williams, Room 544, FCC, 1919 M Street NW., Washington, DC 20554. Interested parties should file comments on this request with the Secretary, FCC, 1919 M Street NW., Washington, DC 20554, and with ITS. Two copies should also be sent to Peggy Reitzel, Policy and Program Planning Division, Common Carrier Bureau, FCC, Room 544, 1919 M Street NW., Washington, DC 20554.

For further information, contact Diane Cornell, at (202) 632–9342, or Kent Nilsson, at (202) 632–6363, in the Policy and Program Planning Division of the Common Carrier Bureau.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–8282 Filed 4–14–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy.

Dates of Meeting: May 17–18, 1988.

Place:

May 17

Palos Verdes Room
Westin-Bonaventure Hotel
404 South Figueroa Street
Los Angeles, CA 90071

May 18

Room 212
Los Angeles Convention Center
Los Angeles, CA

Time: May 17—9:00 a.m. to 5:00 p.m.; May 18—9:00 a.m. to completion.

Proposed Agenda: May 17—Old Business, New Business, Annual Report; May 18—Annual Field Survey Meeting.

The meeting will be open to the public with seating available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727 (telephone number, 301–447–1123) on or before May 2, 1988.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: April 1, 1988.

Caesar A. Roy,

Deputy Director, Office of Training.

[FR Doc. 88–8288 Filed 4–14–88; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

The Bank of Montreal, Toronto, Canada; Application To Engage in Various Securities Activities

The Bank of Montreal, Toronto, Canada ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(2) and (3) of the Board's Regulation Y (12 CFR 225.23(a)(2) and (3)), to acquire Nesbitt Thomson Securities, Inc., New York, New York ("Company"), and thereby engage in:

(1) Providing brokerage and investment advisory services on a combined basis to institutional customers and Company's affiliates;

(2) Providing advice in connection with mergers and acquisitions, divestitures, loan syndications, interest rate swaps, interest rate caps and similar transactions to unaffiliated financial and nonfinancial institutions;

(3) Providing financial advice to the Canadian federal and provincial governments, such as with respect to the issuance of their securities in the U.S.;

(4) Underwriting and dealing in commerical paper to a limited extent; and

(5) Acting as agent and advisor to issuers of commercial paper in connection with the placement of such commercial paper with institutional purchasers.

Applicant has also applied to engage in providing discount brokerage services to non-institutional customers together with related securities credit services and incidental activities such as offering custodial services and cash management services; providing protfolio investment advice and research to institutional customers and Company's affiliates; furnishing general economic information and advice, general economic statistical forecasting services and industry studies to institutional customers and Company's affiliates; and underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks are authorized to underwrite and deal in under 12 U.S.C. 24 and 335. The Board has previously found these latter activities to be generally permissible for bank holding companies. 12 CFR 225.25(b)(15), (4)(iii), (4)(iv) and (16), respectively.

The Board previously has determined that the combined offering of investment advice with securities brokerage services to institutional customers from the same bank holding company subsidiary is a permissible nonbanking activity and does not violate the Glass-Steagall Act. *National Westminster Bank PLC*, 72 Federal Reserve Bulletin 584 (1986) (*"NatWest"*); *J.P. Morgan & Co. Incorporated*, 73 Federal Reserve Bulletin 810 (1987) (*"Morgan"*); and *Manufacturers Hanover Corporation*, 73 Federal Reserve Bulletin 930 (1987) (*"Manufacturers Hanover"*). That position has been upheld by the U.S. Court of Appeals for the District of Columbia Circuit in its affirmance of the Board's *NatWest* Order. *Securities Industry Ass'n v. Board of Governors*, 821 F.2d 810 (D.C. Cir. 1987), *cert. denied*, 108 S. Ct. 697 (1988).

Applicant has proposed to conduct its brokerage activity in accordance with the limitations approved by the Board in *Manufacturers Hanover* except that, here, Applicant proposes to exercise limited investment discretion at a customer's specific request as approved by the Board in *Morgan*. Moreover, under the terms of Applicant's proposal, Company's offices will either be separate from those of its *banking* affiliates or, in the case of offices established in a building in which a *banking* affiliate also has offices, in areas separate from areas utilized by such affiliates. In *Manufacturers Hanover*, this commitment was extended to *all* of the affiliates of the brokerage firm.

Applicant has also proposed to engage in providing advice in connection with financing transactions for unaffiliated financial and nonfinancial institutions, as previously approved by the Board in *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987).

In addition, Applicant has proposed to provide financial advice to Canadian federal and provincial governments, as previously approved by the Board in *Bank of Nova Scotia*, 74 Federal Reserve Bulletin 249 (1988).

With regard to Applicant's proposal to underwrite and deal in commercial paper to a limited extent, Applicant has applied to conduct these activities in accordance with the limitations set forth in the Board's Orders approving those activities for a number of bank holding companies, except that Applicant has not proposed a market share limitation on its underwriting and dealing activity. *See, e.g., Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987) (underwriting and dealing in commercial paper as well as municipal revenue bonds and mortgage-related securities). Applicant's underwriting and dealing proposal presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as First National Bank of Wilmette, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Applicant states that it would not be "engaged principally" in such activities on the basis of the restriction on the amount of the proposed activity relative to the total business conducted by the underwriting subsidiary previously approved by the Board.

With regard to Applicant's commercial paper placement proposal, Applicant has not proposed any quantitative limitations on this activity. Applicant has otherwise applied to conduct these activities in accordance with the limitations set forth in the Board's Order approving those activities for Bankers Trust New York Corporation. 73 Federal Reserve Bulletin 138 (1987).

Any views or requests for hearing should be submitted in writing and received by Williams W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 11, 1988. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, April 11, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8251 Filed 4-14-88; 8:45am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Grants for Centers for Research and Demonstration of Health Promotion and Disease Prevention; Program Announcement and Notice of Availability of Funds for Fiscal Year 1988

The Centers for Disease Control (CDC) announces that competitive grant applications are being accepted for up to three awards to establish, maintain and operate Prevention Centers and for one award to establish, maintain and operate an International Health Promotion and Disease Prevention Center. This center is hereinafter referred to as the International Prevention Center. The Catalog of Federal Domestic Assistance number is 13.135.

Objectives

Recent advances in health sciences research have added to existing knowledge about promoting good health and preventing disease. This new information has emphasized the need for a broadened approach, utilizing the skills and abilities of health professionals heretofore not part of the prevention team. To ensure the widest possible participation in programs designed to foster good health, it is vital that a full range of services be available to provide health assessment and targeted intervention to both individuals and well-defined population groups in the community. There are also important evaluation questions and methodologic issues affecting disease prevention and health promotion programs.

The specific objectives are:

1. To assess the current status of disease prevention and health promotion programs and services offered by national, State, local and

territorial health agencies, public and private health-care providers, voluntary agencies and other community or lay organizations.

2. To identify areas where research is needed to better define the efficacy and utility of specific disease prevention and health promotion programs and services.

3. To initiate research designed to improve understanding of the scientific basis of disease prevention and health promotion programs and services.

4. To establish demonstration projects for the delivery of disease prevention and health promotion programs and services in collaboration with the providers of these programs and services.

5. To develop improved evaluation methodologies for assessing the efficacy of disease prevention and health promotion programs and services and the cost-effectiveness of applying those programs and services to board-based constituencies.

Type of Assistance

The award instrument to be used resulting from this announcement will be grants.

Availability of Funds

In Fiscal Year 1988, 1.915 million dollars are available for funding Prevention Centers. Approximately 1.4 million dollars are available to fund 2 to 3 awards. The awards are expected to range from $450,000 to $700,000. Approximately $500,000 are allocated for an award to establish an International Prevention Center.

Authority

This program is authorized under the Public Health Service Act sections 301(a) (42 U.S.C. 241(a)), as amended, and 1706 (42 U.S.C. 300u–5).

The grant administration policies of the Department of Health and Human Services and the Public Health Service are applicable to the Prevention Centers Program.

Eligibility Requirements

Eligible applicants are schools of medicine, schools of osteopathy, and schools of public health. Eligible applicants may enter into contracts, including consortia agreements (as described in the PHS Grants Policy Statement), as necessary to meet the essential requirements of this program, and to strengthen the overall application.

Essential Requirements

Section 1706 of the PHS Act stipulates that a Prevention Center shall:

1. Be located in an academic health center with—

a. A multidisciplinary faculty with expertise in public health and which has working relationships with relevant groups in such fields as medicine, psychology, nursing, social work, education and business;

b. Graduate training programs relevant to disease prevention;

c. A core faculty in epidemiology, biostatistics, social sciences, behavioral and environmental health sciences, and health administration;

d. A demonstrated curriculum in disease prevention;

e. A capability for residency training in public health or preventive medicine.

2. Conduct—

a. Health promotion and disease prevention research, including retrospective studies and longitudinal prospective studies in population groups and communities;

b. Demonstration projects for the delivery of services relating to health promotion and disease prevention to defined population groups using, as appropriate, community outreach and organization techniques and other methods of educating and motivating communities; and

c. Evaluation studies on the efficacy of demonstration projects conducted under 2.b above

Other Characteristics

A number of other characteristics, which are not specified by law, are desirable and will also be used in the evaluation of applications:

1. The availability of highly qualified professional staff to perform proposed activities with relevant experience in such fields as infectious and chronic diseases, injuries, occupational safety and health, environmental health, maternal and child health, international health, and health promotion and risk reduction.

2. The designation of a Director who has well-defined authorities and responsibilities, and who will devote sufficient time to accomplish the Prevention Center's objectives.

3. A continuing base of peer-reviewed projects or activities funded from other sources relevant to the goals of the Prevention Center and its principal focus.

4. Demonstrated experience in successfully conducting and evaluating research, demonstration, and/or special projects relating to health promotion, disease prevention, and the delivery of health services.

5. Commitment of the parent institution to the Prevention Center, so that the Center will be recognized as a major element within the organizational structure; and manifested by various combinations of personnel, facilities, and activities funded from other sources.

6. Facilities and organizational arrangements that promote and foster collaboration among the staff and components of the Prevention Center.

7. A history of successful intramural cooperation among a variety of disciplines and, as appropriate, involving staff who will be part of the Prevention Center.

8. Effective working relationships with State and local health departments and other organizations (e.g., care providers, professional associations, voluntary organizations, etc.) whose active support and participation are essential to successful implementation of proposed activities, and in the case of the International Center, with international organizations.

9. Effective mechanisms for linking Prevention Center activities with researchers and practitioners in disease prevention, health promotion and health services research, and agencies, organizations and individuals engaged in offering programs and delivering services in those areas.

10. Relevant data and experience for rigorously evaluating the efficacy and cost benefits of demonstrations and other Center activities requiring rigorous evaluation.

11. Plans for the establishment of an advisory committee or other suitable mechanisms for obtaining input from a variety of perspectives (including scientists, health care providers, health services administrators, health officials, voluntary health organizations, and consumers) on the major aspects of the Prevention Center Program.

12. Plans to become self-sustaining.

Applications

1. Copies—Place of Submission

Applications should be submitted on Form PHS–398 (revised September 1986). Applications should also adhere to the Errata to the Instruction Sheet for PHS–398 contained in the Grant Application Kit. The original and two copies of the application must be submitted on or before June 1, 1988, to the: Centers for Disease Control, Grants Management Officer, Procurement and Grants Office, 255 E. Paces Ferry Road, NE., Room 321, E14, Atlanta, Georgia 30305.

Application kits are available from the CDC Grants Management Officer.

Applicant organizations wishing to apply for awards for a domestic Prevention Center and for an

International Prevention Center must submit a separate application for each type of Center. A single application which seeks funding for both a domestic Center and an International Center will not be considered responsive to the application guidelines and will not be forwarded for peer review.

An applicant organization has the option of having specific salary and fringe benefit amounts for individuals omitted from the copies of the application that are made available to outside reviewing groups. If the applicant elects to exercise this option, use asterisks on the original and two copies of the application to indicate those individuals for whom salaries and fringe benefits are being requested; the subtotals must still be shown.

In addition, submit an additional copy of page four of Form PHS–398, completed in full with the asterisks replaced by the amount of the salary and fringe benefits requested for each individual listed. This budget page will be reserved for internal CDC staff used only.

2. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received at the above address on, or before, the deadline date, or

b. Sent on, or before, the deadline date and received in time for submission to the peer review committee. (Applicants should request a legibly-dated U.S Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

3. Late Applications

Applications which do not meet the criteria in either paragraph 2. a. or b. immediately above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

4. Reviews

Applications are not subject to Inter-Governmental Review pursuant to Executive Order 12372.

5. Content of Application

Applications must include a narrative which details the following information: (NOTE: For general guideline purposes, the terms "Center," "Prevention Center" and "International Prevention Center" may be considered interchangeable.)

a. The proposed focus for the Center. Whether the proposed focus is broadly conceived or narrowly targeted on one or a few closely related areas, activities to be conducted in conjunction with the Center's focus should be clearly explained in terms of overall thrust, areas of emphasis, need, scientific basis, expertise, expected interactions, and anticipated outcomes.

While creativity and flexibility in selecting a focus are essential to stimulating innovative approaches and interactions, the Center's proposed focus should be responsive to the health priorities or emerging health needs of the geographic area and/or demographic group defined. In selecting a focus, applicants should also consider:

(1) The leading causes of preventable illness/injuries, premature death, and medical expenditures in the nation as a whole, as well as identified target populations; and/or

(2) Major cross-cutting issues affecting the present or future status of disease prevention and health promotion programs and services in the geographic area and/or population group defined in the application. The proposed focus should also reflect the interests and capabilities of the applicant and the health needs of the various nations, States, or communities within the geographic area involved or population group defined.

b. Clearly stated and measurable objectives consistent with the applicant's proposed focus and activities and the goals of the program outlined under the Objectives section of this document. The Center's proposed focus and objectives should likewise promote clarity of purpose and facilitate integration of Center activities into a conceptual whole.

c. A detailed program plan describing the means by which the Center's objectives will be achieved. The program plan must include a description of multidisciplinary interactions, developmental research, formal studies, demonstration projects, and shared expertise. For the purposes of this announcement, these terms are defined as:

(1) "Multidisciplinary interactions" means such investigations, surveys, literature searches, dialogues, assessments, initiatives, and other intramural or extramural activities as the applicant may propose in order to clearly explain, nuture, and further delineate specific needs and opportunities for furthering the aims of the Prevention Center Program. The need for such interactions and how they will contribute to the Center's objectives must be clearly defined.

(2) "Developmental research" means that series of steps leading to the development of specific studies or research projects. In addition to determining the needs for further scientific research and methods development, developmental research includes identifying and synthesizing available scientific evidence or data about a specific health problem, population group, health care setting or intervention. Applicants must clearly define the areas to be investigated and the methods to be used. The need for developmental research and how it will contribute to the Center's objectives must be clearly defined.

(3) "Formal study" means an identified research project which is intended and designed to establish, discover, develop, clarify, or confirm information on the underlying mechanisms of a specific health problem, population group, health care setting or intervention. In the context of this program, formal studies include research or methods, retrospective studies and longitudinal prospective studies in defined populations, and controlled intervention trials. Proposed studies must adhere to the scientific method and fall within the framework of the Public Health Service's definition of "prevention research" as defined in (6) below. The need for new studies, their contribution to the Center's objectives, and the relevancy of ongoing studies conducted by core faculty must be clearly defined.

(4) "Demonstration project" means a time-limited project aimed at testing the impact and/or efficacy of a service or intervention in remedying or reducing the underlying causes and/or exposure to risk factors of one or more preventable health problems in a defined community or target population. Testing the public health impact of a trial intervention, method, or approach on a community basis requires rigorous evaluation as well as quality control. The scientific basis and projected cost benefit of the intervention must be clearly delineated in the application along with a clear statement of the problem and methodology. The potential for practical application in public health practice of the methods tested in demonstration projects should be clear. Such demonstrations must also be consistent with the Public Health Service definition of "prevention research" as defined in (6) below. The need for each identified demonstration and how it will contribute to the Center's objectives must be clearly defined.

(5) "Shared expertise" means consultation to government public health agencies and other organizations in planning and evaluating programs or projects involving disease prevention

and health promotion programs and services and other activities which match the Center's capabilities and focus. The mechanisms for offering such assistance, particularly as it relates to designing and/or conducting formal evaluations, and how it will enhance the Center's objectives must be clearly defined.

(6) "Prevention research" includes only that research designed to yield results directly applicable to interventions to prevent occurrence of disease or disability, or the progression of detectable but asymptomatic disease.

(a) Pre-intervention:

—Identification of risk factors for disease or disability
—Development of methods for identification of disease controllable in the asymptomatic stage
—Refinement of methodological and statistical procedures for quantitatively assessing risk and measuring the effects of preventive interventions.

(b) Intervention:

—Development of biologic interventions to prevent occurrence of disease or disability, or progression of asymptomatic disease
—Development of environmental interventions to prevent occurrence of disease or disability, or progression of asymptomatic disease
—Development of behavioral interventions to prevent occurrence of disease or disability, or progression of asymptomatic disease
—Conduct of clinical and community trials and demonstrations to assess preventive interventions and to encourage their adoption.

Some interventions may be applicable to primary prevention as well as to disease treatment (e.g., diet and exercise as components of rehabilitation for coronary heart disease). Research into such intervention is considered prevention research.

Applicants have broad flexibility in determining the appropriateness, scope and blend of these and other proposed activities, but at least twenty-five (25) percent of the Center's resources must be allocated to defined formal studies/research projects and community demonstrations as defined in parts c.(3) and c.(4) above. The need for such "other activities" that the applicant may consider necessary to accomplish its stated objectives must also be clearly defined along with expected outcomes.

d. A method of evaluation aimed at monitoring progress in meeting the Center's objectives.

e. A description of the Center director's role and authority relative to staffing the Prevention Center, coordination of effort, and control over Center space and equipment.

f. A description of the core faculty and its role in implementing and evaluating the proposed program. Whether paid from the grant or other sources, the core faculty must include full or part-time faculty in epidemiology, biostatistics, social sciences, behavioral sciences, environmental health sciences, and one of the health disciplines which addresses the administration of health programs. The applicant may also include as a part of the core faculty other disciplines (e.g., health economics, biomedical ethics, occupational safety and health, health law, health education, medicine, and nursing) as needed to achieve the Center's proposed objectives.

g. A list of staff, including the Center director and core faculty, who are expected to participate in the Center, including titles, tenure status, areas of expertise, and the amount of time devoted to each component of the proposed program, and whether paid from the grant or other sources.

h. A list of relevant current funded and/or pending grants and/or contracts for the core faculty (PHS 398, "Other Support") under part e. above. For each grant or contract include:

(1) Source of funds;
(2) Amount of funding;
(3) Identifying numbers;
(4) Whether funded or pending;
(5) Date of funding, initiation, and termination;
(6) Relationship to the Center's proposed theme, objectives and implementation plan.

i. Documentation of the involvement of appropriate public health agencies, health care providers, professional and community organizations, and other interested parties, including letters of support and a clear statement of their role, if applicable.

j. A description of how the applicant plans to obtain continuing input and advice from a variety of perspectives (e.g., scientists, public health officials, health care providers, health services administrators, voluntary health organizations, and consumers) as counsel is needed, to maximize participation and "ownership" in Prevention Center activities and to obtain resources from other sources. Toward this end, applicants may establish an advisory committee or use other mechanisms suitable to their needs.

k. Documentation of the source, allocation and planned full use of other national, State, local government, foundation, or institutional funds made available to the Center and an indication of the discretion which the Center director has with these funds.

l. Charts showing the proposed organizational structure of the Center and its relationship to the applicant institution and, where applicable, to other governments, affiliated institutions or collaborating organizations.

m. A detailed budget for the Prevention Center.

n. In regard to the Research Plan, instructions apply to demonstration projects as well as formal research studies.

o. In citing preliminary studies or prior findings, the six phases of prevention research and demonstrations are:

(1) Hypothesis development;
(2) Methods development;
(3) Controlled intervention trials;
(4) Defined population studies;
(5) Demonstrations;
(6) Wide-scale application of successful results.

The phase(s) to be conducted should be clearly delineated.

p. For demonstration projects, also describe the scientific strength of the proposed interventions; the target population; projected cost benefits; data gathering activities and evaluations procedures; and possible future strategies for wide-scale application of the results if the specific aims of the project are accomplished.

q. Plans to become self-sustaining.

6. Review Criteria

Applications will be reviewed and evaluated by a dual review process.

a. A *peer review* will be conducted on all applications. Applications for funds to establish an International Prevention Center will receive a separate peer review. The review process may include a site visit. Applications will be reviewed and evaluated in the peer review based on the evidence submitted which specifically describes the applicant's ability to meet the following criteria:

(1) The degree to which the applicant satisfies the essential requirements described under Eligibility Requirements section of this document.

(2) The degree to which the applicant possesses Other Characteristics described under Eligibility Requirements section of this document.

(3) The quality of the program's measurable objectives and the overall match between the applicant's proposed focus, activities, and the objectives and the goals stated in the application.

(4) The scientific merit of the overall application relative to the types of

research, demonstration, and other activities proposed.

(5) The need for, and significance of, proposed studies and demonstrations, such that at least 25 percent of the grant award will be directed toward the conduct of defined formal studies/research projects and community demonstrations.

(6) The adequacy of the methods for coordinating the overall program and its components.

(7) The adequacy of the methods for evaluating achievement of the program's measurable objectives.

(8) Overall qualifications, adequacy, and appropriateness of personnel to accomplish proposed activities.

(9) The degree of commitment by the parent institution as manifested by the organizational status of the Prevention Center and combinations of Center personnel, facilities and activities funded from other sources, and the likelihood that this commitment will be sustained or expanded in future years.

(10) The degree of commitment and cooperation manifested by other interested parties, including national, State and local health departments, organizations and associations of health services providers, voluntary health organizations and consumers where applicable. The degree of this commitment will also be measured by the likelihood that it will be sustained or expanded in future years.

(11) The reasonableness of the proposed budget in relation to the proposed program.

b. A *secondary review* of all applications will be conducted by a CDC committee based on:

(1) The results of the peer review.

(2) The significance of proposed Prevention Center activities, including areas of emphasis for research and demonstration.

(3) Needs and geographic balance within the geographic area defined.

(4) Balance between multi-disciplinary interactions, research projects, community demonstrations, and other proposed activities.

(5) Budgetary considerations

(6) Plans to become self-sustaining.

7. Awards

Awards will be made based on priority score ranking, secondary review, availability of funds, and such other significant factors deemed necessary and appropriate by the Director, CDC.

Both types of awards will not be given to a single applicant. In the event an applicant organization submits applications for both types of awards and should rank sufficiently high as to be eligible for two awards, funds will be granted to implement that application which best promotes the objectives of the program.

Information

Information on application procedures, copies of application forms, and other material may be obtained from Mr. Henry S. Cassell, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 321, E14, Atlanta, Georgia 30305, or by calling (404) 842–6575 or FTS 236–6575.

Technical assistance may be obtained from Steven L. Solomon, M.D., Assistant Director for Prevention, Training and Laboratory Program Office, Centers for Disease Control, Atlanta, Georgia 30333, or by calling (404) 639–1986 or FTS 236–1986.

Dated: April 11, 1988.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 88–8275 Filed 4–14–88; 8:45 am]

BILLING CODE 4160–18–M

Immunization Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Date: May 17–18, 1988.

Place: Conference Room 207, Centers for Disease Control, 1600 Clifton Road NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open

Contact Person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee, Centers for Disease Control (1–2047), 1600 Clifton Road NE., Atlanta, Georgia 30333. Telephone: FTS: 236–3751; Commercial: 404/639–3751.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will discuss Hepatitis vaccine, polio vaccine, influenza vaccine, and other vaccines; and consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

Dated: April 11, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–8273 Filed 4–14–88; 8:45am]

BILLING CODE 4160–18–M

Meeting of National Committee on Vital and Health Statistics

ACTION: Notice of Meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Minority Health Statistics established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following Subcommittee meeting.

Name: National Committee on Vital and Health Statistics Subcommittee on Minority Health Statistics

Time and Date: 9:00 am–5:00 pm—May 10, 1988; 9:00 am–12:00 noon—May 11, 1988.

Place: Room 337A–339A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201

Status: Open

Purpose: The Subcommittee will hear presentations on unmet statistical data needs on access and financing of medical care for minority populations and the medically indigent, including the potential use and value of these data.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: April 11, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–8306 Filed 4–14–88; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Fertility and Maternal Health Drugs Advisory Committee; Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the renewal of the Fertility and Maternal Health Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on March 23, 1990, unless the

Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: April 11, 1988

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–8267 Filed 4–14–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88E–0064]

Determination of Regulatory Review Period for Purposes of Patent Extension; Prinivil®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Prinivil® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Andrea E. Chamblee, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Prinivil® (Lisinopril) which is indicated for the treatment of hypertension. It may be used alone or concomitantly with other classes of antihypertensive agents. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Prinivil® (U.S. Patent No. 4,374,829) from Merck & Co., Inc., and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated March 7, 1988, advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period and that the active ingredient, Lisinopril, represented the first permitted marketing or use of that active ingredient. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Prinivil® is 2,373 days. Of this time, 1,751 days occurred during the testing phase of the regulatory review period, while 622 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 2, 1981. FDA has verified the applicant's claim that the investigational new drug application for the product (IND 18–815) was initially submitted on July 2, 1981.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* April 17, 1986. The applicant claims April 16, 1986 as the date the new drug application (NDA) for the drug was initially submitted. However, FDA records indicate that NDA 19–558 was initially submitted on April 17, 1986.

3. *The date the application was approved:* December 29, 1987. FDA has verified the applicant's claim that NDA 19–558 was approved on December 29, 1987.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 676 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 14, 1988, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 12, 1988, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 5, 1988.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 88–8268 Filed 4–14–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88E–0084]

Determination of Regulatory Review Period for Purposes of Patent Extension; Corotrope®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Corotrope® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Andrea E. Chamblee, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Corotrope® (milrinone lactate) which is indicated for the short-term intraveneous therapy of conjestive heart failure. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Corotrope® (U.S. Patent No. 4,313,951) from Sterling-Winthrop Research Institute and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated March 14, 1988, advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period and that the product represented the first permitted marketing or use of that active ingredient. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Corotrope® is 2,205 days. Of this time, 1,287 days occurred during the testing phase of the regulatory review period, while 918 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* December 19, 1981. FDA has verified the applicant's claim that the investigational new drug application (IND) for the drug became effective on December 19, 1981.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* June 27, 1985. Although the applicant claims that the new drug application for the product (NDA 19–436) was initially submitted on September 26, 1985, according to FDA records, NDA 19–436 was initially submitted on June 27, 1985.

3. *The date the application was approved:* December 31, 1987. FDA has verified the applicant's claim that NDA 19–436 was approved on December 31, 1987.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 14, 1988, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 12, 1988, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 5, 1988.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 88–8269 Filed 4–14–88; 8:45 am]

BILLING CODE 4160–01–M

Health Professional Organizations' Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting of health professional organizations to be chaired by Frank E. Young, Commissioner of Food and Drugs. The agenda will include discussions on treatment investigational new drug applications (IND's), acquired immunodeficiency syndrome (AIDS), aspirin issues, renal dialysis, and the new drug approval process.

DATE: The meeting will be held on April 22, 1988, from 1:30 to 3:30 p.m.

ADDRESS: The meeting will be held in Conference Rm. 503A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Robert Veiga, Office of Health Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5470.

Dated: April 8, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–8314 Filed 4–14–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88E–0131]

Determination of Regulatory Review Period for Purposes of Patent Extension; Prozac™

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Prozac™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commission of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) as subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Prozac™ (Fluoxetine Hydrochloride) which is indicated for the treatment of depression. The clinical efficacy of Prozac™ was established in 5- and 6-week trials with depressed outpatients whose diagnoses corresponded most closely to the DSM–III category of major depressive disorder. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Prozac™ from Eli Lilly & Co. and requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Prozac™ is 4,292 days. Of this time, 2,716 days occurred during the testing phase of the regulatory review period, while 1,576 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* March 31, 1976. FDA has verified the applicant's claim that an investigational new drug application for Prozac™ became effective on March 31, 1976.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* September 6, 1983. FDA has verified the applicant's claim that the new drug application for the drug (NDA 18–936) was initially submitted on September 6, 1983.

3. *The date the application was approved:* December 29, 1987. FDA has verified the applicant's claim that NDA 18–936 was approved on December 29, 1987.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 731 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 14, 1988, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 12, 1988, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackers in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 8, 1988.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 88–8313 Filed 4–14–88; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Application Announcement for Cooperative Agreements With Statewide Organizations for Development of Comprehensive Primary Health Care Services

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is announcing that applications are being accepted from qualified Statewide organizations for cooperative agreements to provide assistance in the development and delivery of comprehensive primary health care services in areas that lack adequate health manpower or have populations lacking access to primary care services. It is expected that approximately $4 million will be available for new and competing continuation agreements, averaging $100,000 each. These agreements will be entered into under the authority of section 333(g) of the Public Health Service Act.

DATE: All applications must be delivered to the contact designated in this announcement or postmarked by July 1, 1988. Applications not meeting the deadline date will be returned to the State.

ADDRESS AND FURTHER INFORMATION: Application kits (Form PHS–5161 with revised facesheet DHHS Form 424, as approved by the Office of Management and Budget under control number 0348–0006) and additional information may be obtained from, and completed applications should be sent to, Ms. Harriett Brown, Special Projects Section, Office of Program Support, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 7–15, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–4220. Additional information about the program can be obtained from Mr. Richard Bohrer, Director, Division of Primary Care Services, at the above address, Room 7A–55, (301) 443–2260.

SUPPLEMENTARY INFORMATION: In order to qualify for a cooperative agreement, an applicant must be a State or a State agency or another Statewide public or private nonprofit entity that operates solely within one State, and must satisfy the Secretary that it is able to perform each of the following functions:

a. Analyze the use of and determine the need for primary care health services and health professionals

personnel in defined health service delivery areas;

b. Determine the types of inpatient and other health services that should be provided to meet the primary care needs of such health service delivery areas; and

c. Cooperate with and assist the Federal Government in the recruitment, selection and retention of National Health Service Corps (NHSC) and other health professionals to meet identified needs.

In carrying out the functions defined above, applicants will be expected to perform at least the following specific activities as part of their responsibilities under a cooperative agreement:

- Have in effect a program for the delivery of primary health care services in medically underserved areas utilizing the resources available through State Medicaid and other agencies, local health departments, and State and local medical societies.
- Initiate and coordinate the implementation of comprehensive plans to integrate Federal, State, and local efforts in the delivery of primary health care services to medically underserved populations.
- Serve as a clearinghouse for persons seeking employment in delivering primary health care services to the medically underserved, and for health service delivery sites in health manpower shortage areas seeking such personnel; evaluate recent experiences in performing this activity, amending existing strategies as appropriate.

Applicants will be evaluated on the basis of their relative ability, as determined by the Secretary, to perform the functions and specific activities listed above.

In conducting this evaluation the Secretary will also consider:

- The experience of the applicant in the delivery of primary health care services or the operation of facilities involved in actual patient care.
- The ability of the applicant to integrate (or the progress the applicant has made in integrating) existing State and local resources with Federal assistance and health care delivery programs.
- Evidence that the applicant will be able to enter (or has entered) into a formal Memorandum of Agreement with an organization representing a majority of Federally funded Community Health Centers within the State.

Federal responsibilities under the cooperative agreements, in addition to the usual monitoring and technical assistance provided by grants, will include the following:

1. To the extent possible, the exercise of responsibility for final authority on the award of Federal grants, Federal health personnel placement, and overall program management of Federal resources in the context of fulfilling the State program as developed under the agreement;

2. Participation in the development of Statewide efforts to coordinate and implement primary care delivery systems; and

3. The recruitment and assignment of National Health Service Corps personnel in accordance with the program developed under the cooperative agreement.

A competitive review of applications will be the basis for selecting successful applicants for cooperative agreements, with consideration being given to those who indicate that they can achieve the objectives of the cooperative agreement with cost-effective expenditure of funds.

In determining which projects to fund, the Secretary will consider applicants' plans to secure maximum self sufficiency and minimize dependence upon and need for subsequent Federal support. Priority will be given to applicants that demonstrate use of combined resources in coordinated primary health care service delivery.

Other Award Information

All agreements to be established under this notice are subject to the provisions of Executive Order 12372, as implemented by 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available by DHHS will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for that review. Since 60 days are allowed for this reiew, applicants are advised to discuss projects with and provide copies of their applications to contact points as early as possible. At the latest, an applicant should provide the application to the State for review at the same time it is submitted to the Bureau of Health Care Delivery and Assistance.

Catalog of Federal Domestic Assistance

The cooperative agreements for development of comprehensive primary health care services are listed as No. 13.130 in the OMB Catalog of Federal Domestic Assistance.

Dated: March 23, 1988.

David N. Sundwall,

Administrator.

[FR Doc. 88-8272 Filed 4-14-88; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Animal Resources Review Committee and the Subcommittees; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee and the Subcommittees on Animal Resources and on Primate Research Centers, Division of Research Resources, May 17-18, 1988, National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting of the full Committee will be open to the public on May 17, from 2:00 p.m. to 5:00 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Also, members from the National Advisory Research Resources Council will be present to discuss a report from an ad hoc committee to review program objectives of the Laboratory Animal Sciences Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the Subcommittee meetings will be closed to the public on May 17 from 8:00 a.m. to 2:00 p.m. and on May 18 from 8:00 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications submitted to the Animal Resources or Primate Research Centers Programs. 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. The location of the Subcommittee meetings will be announced.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31 Room 5B13, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request. Dr. Arthur Schaerdel, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health,

Building 31, Room 5B55, Bethesda, Maryland 29892, (301) 496–5175, will furnish program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institites of Health)

Dated: April 6, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–8255 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

Fogarty International Center Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Fogarty International Center (FIC) Advisory Board, May 24 and 25, 1988, in the Stone House (Building 16), at the National Institutes of Health.

The meeting will be open to the public on May 24 from 8:30 to 5 p.m. The morning agenda will include a Report by the Director of the FIC including discussions of proposed program initiatives; a presentation on strategies and implications of strengthening resources for science and technology in developing countries; and a report of the FIC Program Planning Committee. The afternoon session will continue the program planning process and will include discussion of implementation plans and priorities. A discussion and ratification of the Board's biennial report concludes the afternoon session.

In accordance with the provisions of sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 25, from 9 a.m. to adjournment, for the review, discussion, and evaluation of research fellowship applications. These applications contain information of a proprietary nature, including detailed research protocols, designs, and other technical information; and personal information about individuals associated with the applications.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 38A, Room 609, National Institutes of Health, Bethesda, Maryland 20892 (301–496–1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center (Executive Secretary), Building 38A, Room 609, telephone 301–496–1491, will provide substantive program information.

Dated: March 31, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–8257 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Council on Aging; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging (NIA), on May 23–24, 1988, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public on Monday, May 23, from 10:30 a.m. until 12:30 p.m. for a status report by the Director, National Institute on Aging, a report on the World Health Organization, a report on Regional Meetings of the Advisory Committee to the Director, NIH, and a report on NIA Extramural Priorities for Data Collection in Health and Retirement Economics. It will again be open to the public Tuesday, May 24, from 9:00 a.m. until adjournment for the Annual Report of Intramural Program, Laboratory of Neurosciences, a report on the ad hoc Committee on Program and a report on Role of Aging Research in Relation to Aids. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on May 23 from 2:00 p.m. to recess 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.

Because this meeting is scheduled so far in advance, it is suggested that you contact Mrs. June McCann, Council Secretary for the National Institute on Aging, National Institutes of Health, Building 31, Room 5C02, Bethesda, Maryland 20892, (301/496–9322), for specific information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: March 31, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–8254 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on May 12–13, 1988. The meeting will be held in Building 31, C Wing, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public from 1 p.m. to recess on May 12 and from 9 a.m. to adjournment on May 13 for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9 a.m. to approximately 12 p.m. on May 12 for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Institutes of Health, 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. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–6927) will furnish substantive program information.

Dated: March 31, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–8259 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Training Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, May 19–20, 1988,

National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Training Subcommittee of the above Council will meet on May 18; the Research Subcommittee at 1 p.m. in Building 31, Conference Room 9 and the Training Subcommittee at 8 p.m. in Building 31, Conference Room 10.

The Council meeting will be open to the public on May 19 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., section 10(d) of Pub. L. 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on May 19 to adjournment on May 20 for the review, discussion and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Training Subcommittee of the above Council on May 18, will be closed from 1 p.m. and 8 p.m., respectively, 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, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

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 the Council members.

Dr. Frances A. Pitlick, Director, Division of Extramural Affairs, Westwood Building, Room 7A–17, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7416, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: March 31, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–8260 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, May 16–17, 1988, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9:00 a.m. on Monday, May 16, until approximately 4:00 p.m. and will again be open to the public from 9:00 a.m. on Tuesday, May 17, until 4:00 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 16 from 4:00 p.m. until recess, and again on May 17 from 4:00 p.m. until adjournment on May 17 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NIA, 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.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 5C02, National Institutes of Health, Bethesda, Maryland 20892, (telephone: 301/496–9322) will provide a summary of the meeting and a roster of committee members. Dr. Gunther L. Eichhorn, Acting Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.886, Aging Research, National Institutes of Health)

Dated: March 31, 1988.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 88–8261 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on May 18, 1988, Building 1, Wilson Hall, and May 19 and 20, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on May 18, in Building 1, Wilson Hall, from 1:30 p.m. to 6:00 p.m. for opening remarks; report of the Director, NIGMS; a scientific presentation; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 19 from 8:30 a.m. to 6:00 p.m., and on May 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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, telephone: (301) 496–7301 will provide a summary of the meeting, roster of council members. Dr. Elke Jordan, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 953, Bethesda, Maryland 20892, telephone: (301) 496–7061 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13–821, Biophysics and Physiological Sciences; 13–859, Pharmacological Sciences; 13–862, Genetics Research; 13–863, Cellular and Molecular Basis of Disease Research; and 13–880, Minority Access to Research Careers [MARC]).

Dated: March 31, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–8258 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on May 17–18, 1988, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the Meetings of the following subcommittees:

Program Outreach Subcommittee, Conference Room A, Mezzanine, National Library of Medicine, from 2 to 3 p.m., May 16.

Extramural Programs Subcommittee, 5th-floor Conference Room, Lister Hill Center Building, 2 to 3 p.m., May 16.

The meeting of the Board will be open to the public from 9 a.m. to approximately 4:30 p.m. on May 17 and from 9 a.m. to approximately 11:00 a.m. on May 18 for administrative reports and program discussions. The entire meeting of the Program Outreach Subcommittee will be open to the public. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the entire meeting of the Extramural Programs Subcommittee on May 16 will be closed to the public, and the regular Board meeting on May 18 will be closed from approximately 11:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion 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. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medicine Library Assistance, National Institutes of Health.

Dated: March 31, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–8256 Filed 4–14–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Use Council; Work Program Items

As required by the operating procedures of the Alaska Land Use Council, which was established under the Alaska National Interest Lands Conservation Act (ANILCA), the Council invites the public to submit, for its consideration, projects and issues they believe should be addressed by the Council. The Council is comprised of Federal, State, and native land and resource decision-makers in Alaska. The Council is mandated to conduct cooperative studies, develop programs and procedures for implementing ANILCA, and to advise the Federal and State governments on a variety of complex land and resource management issues in Alaska.

In submitting a potential project or issues please include a brief description of the work to be accomplished, the completion data, the anticipated product, and the nature of the Council's involvement. The Cochairmen, after consultation with the Council's Staff Committee, will prepare a recommended work program considering the requirements of ANILCA, projected Council resources, special requests, and recommendations from the public, the Council's Land Use Advisors Committee, and Council members. The proposed work program will be submitted in May to the Council for adoption. Any interested parties having a proposed work program item should submit the information to the Cochairmen prior to May 4, 1988.

Submittals should be sent to either:

Robert L. Grogan, State Cochairman Designee, Alaska Land Use Council, 2600 Denali Street, Suite 700, Anchorage, Alaska 99503–2798.

Vernon R. Wiggins, Federal Cochairman, Alaska Land Use Council, 1689 "C" Street, Suite 100, Anchorage, Alaska 99501.

Anyone having questions regarding the Council's work program may call either the State Cochairman's office at (907) 274–3528 or the Federal Cochairman's office at (907) 272–3422.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

April 12, 1988.

[FR Doc. 88–8291 Filed 4–14–88; 8:45 am]

BILLING CODE 4310–10–M

Fish and Wildlife Service

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–725979

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to reexport one male and two female clouded leopards (*Neofelis nebulosa*) that were captive born at Chegdu Zoo, Poeple's Republic of China. These cats are to be reexported to the London Zoo, London, England for the purpose of enhancement of propagation.

PRT–726222

Applicant: Gregg Bogosian, Ballwin, MO

The applicant requests a permit to take (collect) an unlimited number of empty shells and dead tissues of the Higgins' eye pearly mussel (*Lampsilis higginsi*), the pink mucket pearly mussel (*Lampsilis orbiculata*), the fat pocketbook mussel (*Potamilus (=Proptera) capax*), and the Curtis' pearly mussel (*Epioblasma (=Dysnomia) florentina curtisi*) that are found in the states of Arkansas, Illinois, Iowa, Kentucky, Missouri, and Tennessee for the purpose of scientific research with the possible sacrifice of up to ten live specimens of each species per year. The applicant would like to use the samples to determine the current range and status of these species.

PRT–726873

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import one captive born female Bactrian deer (*Cervus elaphus bactrianus*) from Tierpark Berlin, Berlin, East Germany, to enhance the propagation of their existing breeding group.

PRT–726407

Applicant: Woodland Park Zoological Gardens, Seattle, WA

The applicant requests a permit to purchase in interstate commerce one female captive born ocelot (*Felis pardalis*) from the Cincinnati Zoo, Cincinnati, Ohio for the purpose of enhancement of propagation of the species.

PRT–726397 and 726400

Applicant: National Museum of Natural History, Washington, DC

The applicant requests a permit to import salvaged specimens worldwide of endangered and threatened amphibians and reptiles. These specimens will be accessioned into the museum collection and made available for scientific research.

PRT–726381

Applicant: Serge d'Elia, Villa Park, CA

The applicant requests a permit to import the trophy of a bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd of Frank Bowker, Grahamstown, South Africa, for the purpose of enhancement of the survival of the species.

PRT–726618

Applicant: Regional Director, Region Five, U.S. Fish and Wildlife Service, Newton Corner, MA

The applicant requests a permit to capture roseate terns (*Sterna dougallii*

dougallii) for banding, to include color-marking of adults and weighing of young. Salvage of dead birds and unhatched eggs is also requested. Activities will be conducted in Maine, Massachusetts, Connecticut and New York. Data obtained will be used to determine factors inhibiting population growth of this species.

PRT-726667

Applicant: Lloyd Erickson, Holdrege, NE

The applicant requests a permit to import the trophy of a male bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd maintained by Mr. F.W.M. Bowker, Jr., Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-726625

Applicant: Greater Baton Rouge Zoo, Baker, LA

The applicant requests a permit to purchase one male nene goose (*Nesochen* (=*Branta*) *sandvicensis*) from the Los Angeles Zoo, where it was captive-hatched, for purposes of captive breeding and display.

PRT-726690

Applicant: David J. Harrington, Holdrege, NE

The applicant requests a permit to import the trophy of a male bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd maintained by Mr. F.W.M. Bowker, Jr., Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-726736

Applicant: Steve Martin, Acton, CA

The applicant requests a permit to export five wolves (*Canis lupus*) to Burnaby, British Columbia, Canada, for the purpose of educating the public about the conservation needs of the species. The wolves will then be returned to the United States.

PRT-726738

Applicant: Idaho Department of Fish and Game, Boise, ID

The applicant requests a permit to import five peregrine falcons (*Falco peregrinus anatum*) from John Lejeune, Agassiz, British Columbia, Canada, for reintroduction to the wild in Boise.

PRT-726737

Applicant: Bruce McElyea, Don Pauls Reptile, Springfield, MO

The applicant requests a permit to import two captive born Round Island day geckos (*Phelsuma quentheri*) from the Jersey Zoo, Channel Islands, Great Britain, for enhancement of the propagation of the species.

PRT-726740

Applicant: Louisiana Department of Wildlife and Fisheries, Baton Rouge, LA

The applicant requests a permit to take (harass) the following sea turtles in the Gulf of Mexico for the purpose of conducting scientific resource surveys and environmental monitoring: Atlantic ridley (*Lepidochelys kempi*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), olive ridley (*Lepidochelys olivaceae*), green (*Chelonia mydas*), and loggerhead (*Caretta caretta*).

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 403, 1375 K Street NW., Washington, DC 20005, or by writing to the Director, US Office of Management Authority, P.O. Box 27329, Washington, DC 20038-7329.

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 applicant and PRT number when submitting comments.

Date: April 11, 1988.

R. K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 88-8365 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-AN-M

Bureau of Land Management

[CO-920-08-4121-02]

Green River Hams Fork Federal Coal Region; Colorado and Wyoming

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Availability of Draft Operational Procedures for Leasing by Application for a 30-Day Public Review Period and Meeting of the Green River-Hams Fork Regional Coal Team to Consider, and if Appropriate, Approve Final Operational Procedures for Use in the Region.

SUMMARY: BLM is making available draft Operational Procedures for processing coal lease applications under the regulations of 43 CFR Part 3425 for a 30-day public review period. Public comments received on the draft Procedures before close of business on Monday, May 16, 1988, will be given full consideration in preparation of final Operational Procedures.

In addition, BLM has reviewed the market conditions described in the Long Range Market Analysis which was prepared for the October 9, 1987, Green River-Hams Fork Regional Coal Team Meeting. As a result of the review, BLM has concluded that there have been no substantial changes in the conditions as described. Copies of the Green River-Hams Fork Long Range Market Analysis are available for review.

On Wednesday, June 1, 1988, the Green River-Hams Fork Regional Coal Teams (RCT) will meet to discuss the final procedures, receive additional public comment, and, if appropriate, approve final Operational Procedures for use in processing lease applications in the region.

DATES: Beginning on Friday, April 15, 1988, copies of the draft Operational Procedures will be available, upon request, from the address listed below for a 30-day public review and comment period. In order to receive full consideration, comments on the draft Operational Procedures should be received at the address below by close of business on Monday, May 16, 1988.

The Regional Coal Team will meet on Wednesday, June 1, 1988, at 9:00 a.m. at the Lakewood Sheraton Hotel (address given below).

ADDRESSES: Copies of the draft Operational Procedures and Long Range Market Analysis are available on request from the Public Room of the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215, (303) 236-2100 or (FTS) 776-2100. Comments on the draft Operational Procedures should be submitted to the Colorado State Office (CO-923), Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

The Regional Coal Team meeting will be held at the Lakewood Sheraton Hotel, 360 Union Boulevard, Lakewood, Colorado 80228, (303) 987-2000.

FOR FURTHER INFORMATION CONTACT: Betsy Daniel, (303) 236-1778, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

SUPPLEMENTARY INFORMATION: During its October 9, 1988, meeting, the Green River-Hams Fork Regional Coal Team approved two motions affecting Federal coal leasing in the region. First, the team recommended renewal of its charter with revisions including a description of the regional coal team's role in the lease by application process. In addition, the team recommended that, after opportunity for public comment on the topic, the Director of BLM decertify the region so that leasing could be conducted under the regulations

contained in 43 CFR Part 3425, Lease Applications.

On March 24, 1988, after requesting and receiving public comment, the Regional Coal Team recommended to the Director of BLM that the Green River-Hams Fork Federal Coal Production Region be decertified in order to allow leasing by application in the region.

Approval of the revised charter by the Secretary of the Interior and action by the Director of BLM decertifying the region are expected before the Green River-Hams Fork Regional Coal Team meeting on June 1, 1988.

A preliminary meeting agenda for June 1, 1988, follows:

I. Introduction.

II. Approval of Minutes of the October 9, 1987, Meeting.

III. Approval of Final Agenda.

IV. Updates.

A. Regional Coal Team Charter.

B. Market Conditions in the Region.

C. Status of Lease Actions.

1. Preference Right Lease Applications.

2. Emergency Lease Applications.

V. Final Operational Procedures for Leasing by Application.

A. Overview of the Draft Procedures, Discussion of Public Comments, and Changes Made in Final Procedures.

B. RCT Discussion.

C. Public Comment.

D. Revisions or Modifications of the Proposed Final Procedures.

E. Approval of the Final Procedures, If Appropriate.

VI. Data Adequacy Standards.

Date: April 8, 1988.

Neil F. Morck,

State Director.

[FR Doc. 88-8274 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-JB-M

Beaver Creek Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)c of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Land Management (BLM) prepared an environmental impact statement covering placer mining within the Beaver Creek drainage.

The drainage area is located approximately 50 air miles north of Fairbanks, Alaska and constitutes nearly 1.2 million acres of land and contains portions of the White Mountains National Recreation area.

Issues encompassed are the cumulative impacts of multiple mining operations on the environment; in particular, water quality, subsistence uses, and the consistency of BLM permitting procedures with the Alaska National Interest Lands Conservation Act (ANILCA).

A proposed action and four alternatives incorporating management options ranging from emphasizing regulations under 43 CFR Part 3809 to a "no mining" alternative as outlined by the Court are presented. The proposed action evaluates BLM's surface management practices in the affected watershed. Environmental consequences of all the alternatives are analyzed and presented.

DATES: The EIS will be available for review from approximately April 18, 1988 to June 20, 1988. This will allow a required minimum 45-day period for public comment. Comments received prior to June 20, 1988 will be considered while preparing the Final EIS (FEIS). Comments received after this date may be too late to be integrated into the FEIS. Draft EIS public meetings will be held June 1, 1988 from 7 p.m. to 9 p.m. at the BLM, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska; June 2, 1988 from 7 p.m. to 9 p.m. at the Ryan Junior High School, 915 Airport Way, Fairbanks, Alaska; June 13, 1988 from 7 p.m. to 9 p.m. at the Tribal Hall, Beaver Village, Alaska; June 14, 1988 from 7 p.m. to 9 p.m. at the Cultural Center, Fort Yukon, Alaska; and June 20, 1988 from 7 p.m. to 9 p.m. at the Community Center, Birch Creek Village, Alaska.

ADDRESSES: Comments on the EIS should be sent to 3809 Project Manager, Richard F. Dworsky, Alaska State Office, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Richard Dworksy—Project Manager, or Page Spencer—Technical Coordinator, at (907) 271-3114.

Lester K. Rosenkrance,

Acting State Director.

[FR Doc. 88-8031 Filed 4-14-88; 8:45 am]

BILLING CODE 4130-JA-M

[NM-010-08-4322-02]

Albuquerque District, NM; District Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Albuquerque District Grazing Advisory Board meeting.

SUMMARY: The Bureau of Land Management's Albuquerque District Grazing Advisory Board will meet on Friday, May 13, 1988, at 10:00 a.m., in the BLM Albuquerque District Office Building located at 435 Montano NE., in Albuquerque, New Mexico.

The agenda for the meeting will include:

1. A review and discussion on proposed 1989 range improvement projects.

2. Discussion on late payments of grazing bills.

3. Farmington Resource Area report.

4. Discussion of base water qualifications on the Chiuilla allotment—Rio Puerco Resource Area.

Time will be provided for public comments during the appropriate agenda items. Minutes of the meeting will be available for public inspection within 30 days following the meeting in the Albuquerque District Office located at 435 Montano NE., Albuquerque, New Mexico 87107.

Michael F. Reitz,

Acting District Manager.

[FR Doc. 88-8245 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-FB-M

[CA-010-08-3110-10-CAPL; Casefile #CA 21738]

Realty Action; Exchange of Public and Private Lands in San Luis Obispo County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—CA 21738.

SUMMARY: The following described public lands have been determined to be suitable for exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Mt. Diablo Meridian, California

T.29S., R.17E.

Sec. 2 S½;
Sec. 3 All;
Sec. 4 Lots 1, 2 of NW¼, S½;
Sec. 5 E½ Lot 1 of NE¼, Lot 2 of NE¼;
Sec. 8 NE¼NE¼;
Sec. 9 NE¼, E½NW¼, NW¼NW¼, SE¼;
Sec. 10 SW¼;
Sec. 11 NW¼NW¼;
Sec. 15 NW¼NE¼, W½, W½SE¼;
Sec. 22 All;
Sec. 23 W½, W½SE¼, SE¼SE¼;
Sec. 26 All;
Sec. 27 E½, N½NW¼;
Sec. 34 E½;
Sec. 35 N½, SE¼.

T.30S., R.17E.,

Sec. 3 Lot 3, SE¼NW¼.

Except therefrom those portions deeded to the State of California for State Route 58 and all mineral rights.

Containing 5,668.85 acres of public land, more or less.

In exchange for these land, the United States will acquire the surface estate of approximate equal value within the Carrizo Natural Heritage Reserve from The Nature Conservancy.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire a portion of the non-federal lands within the proposed Carrizo Natural Heritage Reserve. This Reserve would promote the conservation of threatened and endangered species and preserve a representative sample of the historic southern San Joaquin Valley flora and fauna.

The ultimate goal of the Bureau of Land Management is to acquire approximately 155,000 acres within the Reserve. A secondary purpose of the exchange is to consolidate the Bureau lands in San Luis Obispo County and reduce the number of scattered, isolated Bureau parcels that lack legal access and are difficult for the Bureau to manage. The public interest will be well served by completing the exchange.

Publication of this notice in the **Federal Register** segregates the following public lands from the operation of the public land laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two years from the date of publication in the **Federal Register**, whichever occurs first.

Mt. Diablo Meridian

T.29S., R.17E.,
Sec. 15 NW¼NE¼, W½SE¼.

The exchange will be on an equal value basis. Acreage of the private land will be adjusted to approximate equal values.

Lands transferred from the United States will retain the following reservations:

1. A right-of-way for ditches or canals constructed by the authority of the United States, under the Act of August 30, 1890 (43 U.S.C. 945).

Land transferred from the United States will be subject to:

1. Private easements of record, including easements to Pacific Gas and Electric Company for electric transmission lines and AT&T communications.

2. Any unrecorded farming or grazing leases.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management Caliente Resource Area Office, 4301 Rosedale Highway, Bakersfield, CA 93308 (805) 861-4236.

DATE: For a period up to and including May 31, 1988, interested parties may submit comments to the Area Manager, Caliente Resource Area Office, Bureau of Land Management, at the above address.

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 Interior.

Glenn A. Carpenter,
Caliente Resource Area Manager.

Date: April 5, 1988.

[FR Doc. 88-8132 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-40-M

[UT-020-88-4212-21]

Salt Lake District; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: This notice of realty action is to allow for applications to be filed to permit the use of public lands under section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732; 90 Stat. 2762). The following public land in Tooele County, Utah has been found suitable for the issuance of a short-term permit which would allow the Utah National Guard to establish troop assembly area and communication areas, and carry out artillery firing from two firing points on public lands during a two-week period. This would be from June 12 to June 25, 1988. The exercise, known as FIREX 88, will include participation of nearly 17,000 soldiers and airmen. The proposed exercise would be conducted partially on BLM lands adjacent to and around Dugway Proving Ground.

T. 4 S., R. 4 W., SLM.,
Sec. 31: Lot 4, SE¼SW¼, S½SE¼.
T. 5 S., R. 4 W., SLM.,
Sec. 6: ALL;
Sec. 7: Lots 1 & 2, NE¼, E½NW¼;
Sec. 17: Lots 8 & 9, SW¼, W½SE¼;
Sec. 20: Lots 3 & 4, W½NE¼, SE¼.
T. 7 S, R. 5 W., SLM.,
Sec. 7: Lots 3 & 4, E½SW¼;
Sec. 18: Lots 1-4, E½W½;
Sec. 19: Lots 1 & 2, E½NW¼.
T. 7 S., R. 6 W., SLM.,
Sec. 12: S½;
Sec. 13: ALL;
Sec. 24: N½;
Sec. 25: ALL;
Sec. 26: E½;
Sec. 34: ALL;
Sec. 35: ALL;
Sec. 36: NW¼.
T. 8 S., R. 6 W., SLM.,
Sec. 1: Lots 3 & 4, S½NW¼, SW¼;
Sec. 2: ALL;
Sec. 3: ALL;
Sec. 4: ALL;
Sec. 11: N½N½.
T. 7 S., R. 7 W., SLM.,
Sec. 4: ALL;
Sec. 5: ALL;
Sec. 6: Lots 1 & 2, S½NE¼, SE¼;
Sec. 7: E½;
Sec. 8: ALL;
Sec. 9: ALL;
Sec. 17: ALL;
Sec. 18: E½.
T. 9 S., R. 7 W., SLM.,
Sec. 4: ALL;
Sec. 5: Lots 1-3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8: E½, E½W½;
Sec. 9: ALL;
Sec. 16: ALL;
Sec. 17: E½, E½W½.

Containing 15,979.96 acres.

The permit is proposed for issuance on a noncompetitive basis, and an application will only be accepted at the Salt Lake District, 2370 South 2300 West, Salt Lake City, Utah 84119. This application will be from the Utah Army National Guard, I Corps Artillery Headquarters. The application must include the intended acreage as part of the proposal. All rehabilitation will be in accordance with the terms and conditions of the permit and responsibility of the Utah Army National Guard.

The application must include a reference to this notice and a complete description of the proposed action. The action description must be in sufficient detail to allow evaluation of the proposed land use, impacts on the environment, public benefits and justification for the proposed action on public lands. The application should include: Details of the proposed use and activities, a map of sufficient scale to be legible, a legal description of the proposed project location (acreage), and any other information that may aid in evaluating the application.

For more details of application content, refer to 43 CFR Part 2920, copies of which are available at the BLM Salt Lake District Office. Also available is information on terms and conditions that will apply to the permit, location maps, evaluation criteria, etc. The Environmental Assessment concerning the proposed action are also available for review.

During a period of 45 days from the date of publication, interested parties may submit comments to the District Manager, Bureau of Land Management, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119. Any adverse comments will be evaluated by the District Manager who

may vacate or modify this Notice and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Bureau.

Deane H. Zeller,

District Manager.

[FR Doc. 88-8276 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-DQ-M

[OR-018-08-4212-14; GP8-117]

Realty Action in Lake County, OR

AGENCY: U.S. Department of the Interior, Bureau of Land Management.

ACTION: Direct Sale of Public Land in Lake County, Oregon.

The following lands are suitable for a direct sale under Section 203 (and 209) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (and 1719), at no less than the appraised fair market value.

Serial No.	Legal description	Acreage	Value	Minimum (percent) bid deposit	Bidding procedure
OR 43342	T. 26 S., R.14 E., W.M., Oregon; Sec. 4: Lot 14	20	$1,100	30	Direct
OR 43343	T. 28 S., R.16 E., W.M., Oregon; Sec. 18: S½S½NE¼SW¼, S½N½NE¼SW¼	15	900	30	Direct

The above described land(s) are hereby segregated from appropriation under the public land laws, but not from sale under the above cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

The sale will be held 60 days after publication of this notice at the Bureau of Land Management, Lakeview District Office, P.O. Box 151, 1000 South 9th Street, Lakeview, Oregon 97630. Disposal of these land tracts will serve important public objectives and are not suitable for management by another Federal department or agency. No significant resource values will be affected by this disposal. The sale is in conformance with BLM's planning for the land involved and the public interest will be best served by offering this land for sale.

Direct Sale Procedures

Direct sale procedures are being used since competitive sale is not appropriate and the public interest would be best served by direct sale. Benefits to direct sale would be: (1) to provide public land for community expansion, and (2) to provide an adjoining landowner the opportunity to acquire a parcel of public land which is currently used as an integral part of his/her existing ranch operation.

Sale parcels OR 43342 and OR 43343 are being offered to the Fort Rock Historical Society and ZX Land and Cattle Company respectively, using direct sale procedures authorized under 43 CFR 2711.3-3. The land will be sold at fair market value to the designated purchaser without competitive bidding. The designated purchaser will be required to render the minimum percent bid deposit indicated, by the sale date, and the balance of the purchase price within 180 days from the date of sale. If the required deposit is not submitted and the balance of the full purchase price not rendered within 180 days of the sale date, the preference right is cancelled, and the deposit will be forfeited.

Terms and Conditions of the Sale

The terms, conditions and reservations applicable to the sale are a follows:

1. As to the parcels identified in this notice, all minerals will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act of October 21, 1976; and

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945; and

3. Patents will be issued subject to all valid existing rights and reservations of record; and

4. The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

Unsold Parcels

If any of the parcels identified in this notice are not sold on the date of sale, the parcels will then be offered to the public, using competitive sale procedures 43 CFR 2711.3-1, until sold or withdrawn from the market. Sealed bids will be solicited at the BLM, Lakeview District Office, during regular business hours, 7:45 a.m. to 4:30 p.m. Bidders must be U.S. citizens, 18 years of age or more; a state or state instrumentality authorized to hold property; or a corporation authorized to own real estate in the state in which the land is located. All bids received will be opened the first Wednesday of each subsequent month. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening.

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, Lakeview, Oregon. 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 final determination of the Department of the Interior.

Date: April 8, 1988.

Judy E. Nelson,

Lakeview District Manager.

[FR Doc. 88-8298 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Capulin Mountain National Monument Name and Boundary Change—Capulin Volcano National Monument

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given that, effective 30 days from the publication of this notice, the name of Capulin Mountain National Monument will be changed to Capulin Volcano National Monument. Further, the boundaries are adjusted to include 17.464 acres of Bureau of Land Management lands, legal description of such lands as follows:

New Mexico Principal Meridian, T. 29 N., R. 28 E., Section 5, NE¼ of lot 3, N½ SE¼ of lot 3, and NE¼SW¼ of lot 3.

This name change and boundary adjustment was authorized by Public Law 100–225, section 506(g)(1), dated December 31, 1987.

Donald A. Dayton,

Acting Reginal Director, Southwest Region, National Park Service.

Date: April 6, 1988.

[FR Doc. 88–8307 Filed 4–14–88; 8:45 am]

BILLING CODE 4310–70–M

Golden Gate National Recreation Area; Minor Boundary Change and Addition of Certain Lands

By virtue of the authority contained in section 5 of the Act of June 10, 1977 (91 Stat. 210) as amended and section 2(b) of the Act of October 27, 1972 (86 Stat. 1299), notice is hereby given that the boundaries of Golden Gate National Recreation Area are modified to include the following described lands:

All that certain real property situated in the City of Pacifica, County of San Mateo, State of California, described as follows:

Portion of "Part 1" shown on portion of the Rancho San Pedro, the Property of David Mahoney, Richard and Robert Tobin, recorded November 19, 1875 in book 1 of maps at page 24, and also being portion of the lands shown on survey of 398.284 acre tract filed August 17, 1943 in book 1 of licenses land surveyors maps at page 78, records of San Mateo County, more particularly described a follows:

Beginning at the northeasterly corner of said Part 1 and running thence along the easterly line of said Part 1 (according to the calls shown on the above named licensed survey), south 1° 56' West 836.48 feet to the true point of beginning; Thence from said true point of beginning along said easterly line of said Part 1 above referred to South 1° 56' West 300 feet to the northerly line of property described in deed to James C. Laskey, dated Arpil 10, 1947 and recorded May 19, 1947 in book 1347 of official records of San Mateo County at page 346; Thence along said northerly line North 88° 07' 30" West 405.95 feet to the easterly line of the State Highway as described in deed to State of California, recorded March 6, 1941 in book 942 official records of San Mateo County at page 334; Thence along said easterly line of the State highway North 1° 52' 30" East 300 feet to the southerly line of the lands described in deed from Penelope C. Halstead to Perry Liebman and Ysabel Liebman, his wife, in joint tenancy, recorded August 27, 1954 in book 2640 of official records of San Mateo County at page 490 (81762-L); Thence along the last named line South 88° 07' 30" East 405.95 feet, more or less, to the point of beginning.

Excepting therefrom the following described parcel of land:

Beginning at the northwesterly corner of that parcel of land described in the deed to C. Theodore Plummer, recorded March 16, 1955 in book 2760 of official records of San Mateo County at page 398 (34302-M), said corner being also on the easterly line of that parcel of land described in the deed to State of California, recorded March 6, 1941 in book 942 of official records of San Mateo County at page 334; Thence along the northerly line of first said parcel (2760 OR 398), South 87° 11' 13" East, 143.01 feet to a line parallel with and distant 25.00 feet southeasterly, at right angles, from the "FR2" line of the Department of Public Works' survey for the state freeway in San Mateo County, Road IV-SM-56-PFA; Thence along said parallel line South 27° 40' 02" West 138.04 feet and along a tangent curve to the left with a radius of 775.00 feet, through an angle of 8° 50' 24" an arc length of 119.57 feet; Thence South 72° 00' 1" East, 22.63 feet; Thence along a tangent curve to the right with a radius of 61.00 feet, through an angle of 72° 55' 18", an arc length of 76.64 feet to the southerly line of first said parcel (2760 or 398); Thence along last said line North 87° 11' 13" West, 110.11 feet to the above-said easterly line of the above-said parcel (942 or 334); Thence along last said line North 2° 48' 47" East, 299.98 feet to the point of beginning.

Donald P. Hodel,

Secretary of the Interior.

[FR Doc. 88–8308 Filed 4–14–88; 8:45 am]

BILLING CODE 4310–70–M

Decker Canyon Development Concept Plan; Santa Monica Mountains National Recreation Area Los Angeles and Ventura Counties, CA

Decision

The selected alternative, Alternative IV, for the future development and use of the Decker Canyon site, Santa Monica Mountains National Recreation Area, will provide day use and overnight facilities that will be accessible to and usable by a wide range of visitors with many levels of physical and mental abilities. The plan to be implemented will provide a barrier-free, handicap-accessible center and overnight lodging facilities consisting of lodges with a total of 24 rooms. The facilities will be targeted to serve family groups or other groups with at least one disabled or elderly member. Also included in the plan are an interpretive activity center, small amphitheater, interpretive and general use trails, picnic areas, and administrative, maintenance and parking space. Decker Canyon Road will be relocated to eliminate a hazardous intersection and to promote more efficient site utilization.

Alternatives Considered

The following alternatives were considered during the project development and environmental analysis. See pages 15 to 55 in the draft EIS and page 2, under *ERRATA*, in the final EIS for more information:

Alternative I. No action. Existing conditions are maintained

Alternative II. Partial exchange, with some retained controls, in order to protect other high priority areas

Alternative III. Staged development of day use facilities only and relocation of Decker Canyon Road

Alternative IV. The preferred alternative as described under *Decision* above

Alternative sites to the Decker Canyon property were also considered. While several locations with suitable terrain and natural features were identified, most of these properties either had been proposed for other development or could not be acquired within a reasonable time frame for implementation of the plan.

Basis for Decision

It is the policy of the National Park Service that, to the extent feasible, facilities and activities are to be made accessible to all populations. A National Park Service special study, *Potential Visitor Use by Urban Minority and Handicapped Populations* (NPS 1981), indicated that much needs to be done to attract and serve a wide spectrum of national recreation area visitors. The Decker Canyon site, because of its physical nature and location, is particularly well suited to fill this need in the Santa Monica Mountains National Recreation Area. Concerns raised during the public review of the draft EIS, regarding traffic and circulation, solid waste disposal, threatened and endangered species and fire prevention, were additionally analyzed in the final EIS and appropriate changes were incorporated in the plan to alleviate these concerns. As compared to the other alternatives evaluated, the selected alternatives offers the best solution to providing recreational facilities for special populations while allowing for other recreation needs and

maintaining the natural and cultural values the selected site.

Measures to Minimize Harm

All practicable means to avoid or minimize environmental harm from the selected alternative have been adopted and include the following measures incorporated into the plan to reduce the impacts of construction and subsequent use of the New facilities at Decker Canyon.

1. Potential traffic problems will be controlled by elimination of the hazardous Decker Road-Mulholland Drive intersection and use of the least congested and safest routes to reach the Decker Canyon facility will be encouraged and advertised. Traffic demands and parking requirements subsequently will be monitored.

2. Visual intrusions of and fire hazard to structures will be reduced through the use of earth shelter design concepts.

3. Impacts to soils and vegetation will be reduced through the provisions of boardwalks and barriers in the natural areas, reuse of excavated topsoil for rehabilitation, contouring, use of hollow pavers that will permit natural grasses to remain, maintenance of constructed trails to prevent erosion, rotation of use areas, and revegetation of disturbed areas with native species.

4. Construction activities will be closely monitored for potential impact on unexpected presence of cultural resource sites or special status species.

5. Following construction and initiation of use, surface waters will be monitored for possibility of contamination from human and equestrain use.

Monitoring or Enforcement Program

An impact/mitigation matrix has been prepared to guide the construction specifications for the project and to assist in monitoring the implementation of the plan in order to ensure that the prescribed mitigation is carried out. The matrix identifies each expected impact of the project with its prescribed mitigation measure(s) and parties responsible for implementation.

Conclusion

The above factors and considerations justify the selection of Alternative IV, identified as the preferred alternative in the draft EIS and as modified or corrected in the final EIS, for the Decker Canyon Development Concept Plan, Santa Monica Mountains National Recreation Area, Los Angeles and Ventura Counties, California.

Approved:

Date: April 4, 1988.

Lewis Albert,

Deputy Regional Director, Western Region, National Park Service.

[FR Doc. 88-8309 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council; Open Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: April 29, 1988, 7:00 p.m.[1] Inclement weather reschedule date: May 13, 1988.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, NY 12764-0159; 717-729-8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will surround distribution and collection of information and concerns surrounding ownership of the strand.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River: River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Alec Gould,

Deputy Regional Director, Mid-Atlantic Region.

[FR Doc. 88-8310 Filed 4-14-88; 8:45 am]

BILLING CODE 4310-70-M

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 239X)]

CSX Transportation, Inc.; Exemption; Abandonment in Chesterfield County, SC

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 2.6-mile line of railroad between milepost AJ-332.84 and milepost AJ-335.0, near Cheraw, in Chesterfield County, SC.

Applicant has certified that (1) no local traffic has moved over the line for at least 2 years and that overhead traffic has been rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 15, 1988 (unless stayed pending reconsideration). Petitions to stay and formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by April 25, 1988, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by May 5, 1988

[1] *See Exemption of Rail Line Abandonments or Discontinuance—Offers of Financial Assistance*, ____ I.C.C.2d ____, served December 21, 1987, and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will serve the EA on all parties by April 20, 1988. Other interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275–7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: April 8, 1988.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–8297 Filed 4–14–88; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Allied Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 17, 1988, a proposed consent decree in *United States of America v. Allied Corporation,* Civil Action No. 88–237A was lodged with the United States District Court for the Middle District of Louisiana. The complaint filed by the United States sought recovery of response costs and injunctive relief under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act against the Allied Corporation and other companies that generated hazardous wastes found at the Bayou Sorrel Landfill near Bayou Sorrel, Louisiana.

The consent decree provides that the settling defendants will complete remedial work at the site, and will reimburse the United States and the State of Louisiana for most of their past response costs and future costs of overseeing the remedial action.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. 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. Allied Corporation,* D.J. Ref. 90–11–2–179.

The proposed consent decree may be examined at the office of the United States Attorney, 352 Florida Street, Baton Rouge, Louisiana 70801 and at the Region VI office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. Copies of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of $5.20 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General.

[FR Doc. 88–8299 Filed 4–14–88; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree; Big Apple Wrecking Corp. et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree as to Defendants General DataComm Industries, Inc., GDC Naugatuck, Inc., and Borough of Naugatuck and a proposed Consent Decree as to Defendant Big Apple Wrecking Corp. in *United States v. Big Apple Wrecking Corp., et al.* have been lodged with the United States District Court for the District of Connecticut. The consent decrees address violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos alleged in regard to the demolition of the former Uniroyal shoe factory in Naugatuck, Connecticut.

The proposed Consent Decree as to Defendants General DataComm Industries, Inc., GDC Naugatuck, Inc., and Borough of Naugatuck requires General DataComm Industries, Inc. to pay a civil penalty of $130,000 in settlement of the United States' claims for civil penalties against those defendants. The consent decree also enjoins those defendants from violations of the asbestos NESHAP for demolition or renovation operations.

The proposed Consent Decree as to Defendant Big Apple Wrecking Corp. requires Big Apple Wrecking Corp. to pay a civil penalty of $130,000 in settlement of the United States' claims for civil penalties against Big Apple Wrecking Corp. The consent decree also enjoins Big Apple Wrecking Corp. from violations of the asbestos NESHAP for demolition or renovation operations, requires Big Apple Wrecking Corp. to provide copies of asbestos notification documents required under State and local law to the U.S. Environmental Protection Agency, and requires Big Apple Wrecking Corp. to comply with certain State and local asbestos removal licensing and worker certification requirements.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree as to Defendants General DataComm Industries, Inc., GDC Naugatuck, Inc., and Borough of Naugatuck and/or comments relating to the proposed Consent Decree as to Defendant Big Apple Wrecking Corp. 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. Big Apple Wrecking Corp., et al.,* D.J. Ref. 90–5–2–1–902A.

The proposed Consent Decree as to Defendants General DataComm Industries, Inc., GDC Naugatuck, Inc., and Borough of Naugatuck and/or the proposed Consent Decree as to Defendant Big Apple Wrecking Corp. may be examined at the office of the United States Attorney, District of Connecticut, 141 Church Street—Mezzanine, New Haven, Connecticut 06510, and at the Office of Regional Counsel, United States Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Rm. 2003, Boston, Massachusetts 02203. Copies of either or both of the consent decrees may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Ave., NW., Washington, DC 20530. A copy of the proposed Consent Decree as to Defendants General DataComm Industries, Inc., GDC Naugatuck, Inc., and Borough of Naugatuck and/or a copy of the proposed Consent Decree as to Defendant Big Apple Wrecking Corp.

may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy of either or both consent decrees, please refer to *United States v. Big Apple Wrecking Corp., et al.*, D.J. Reference # 90–5–2–1–902A. In requesting a copy of the Consent Decree as to Defendant Big Apple Wrecking Corp., enclose a check in the amount of $1.40 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–8300 Filed 4–14–88; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis–Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis–Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis–Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standard Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW, Room S–3504, Washington, DC 20210.

Modifications to General Wage Determination Decisons

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis–Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

New Jersey:
NJ88–2(Jan. 8, 1988) ..... p.617.
New York
NY88–7(Jan. 8, 1988) ..... pp.738–740, pp. 742,754.

Volume II:

Illinois:
IL88–7(Jan. 8, 1988) ..... p.138.
IL88–8(Jan. 8, 1988) ..... p.142.
IL88–9(Jan. 8, 1988) ..... p.148.
IL88–11(Jan. 8, 1988) ..... p.158.
Ohio:
OH88–29(Jan. 8, 1988) ..... pp.828,843–844.

Volume III:

California:
CA88–1(Jan. 8, 1988) ..... pp.34,36.
CA88–4(Jan. 8, 1988) ..... pp.72–102.
Washington:
WA88–2(Jan. 8, 1988) ..... p.387.

General Wage Determination Publication

General wage determinations issued under the Davis–Bacon and related Acts, including those noted above, may be found in the Goevernment Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis–Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 4th day of April, 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88–8044 Filed 4–14–88; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential: (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. *Date:* May 2, 1988
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review applications for Summer Stipend for College Teachers in History, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.
2. *Date:* May 2–3, 1988
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after October 1, 1988.
3. *Date:* May 2–3, 1988
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications submitted to the Public Humanities Projects program, submitted to the Division of General Programs, for projects beginning after March 1988.
4. *Date:* May 3, 1988
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review applications for Summer Seminars for College Teachers in Foreign and Comparative Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.
5. *Date:* May 5, 1988
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review applications for Summer Seminars for College Teachers in Philosophy and Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.
6. *Date:* May 5–6, 1988
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications submitted to the Public Humanities Projects Program, submitted to the Division of General Programs, for projects beginning after March 1988.
7. *Date:* May 6, 1988
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review applications for Summer Seminars for College Teachers in Politics and Society, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.
8. *Date:* May 9, 1988
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Faculty Graduate Study applications in Historically Black Colleges and Universities, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.
9. *Date:* May 9–10, 1988
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications submitted to the Humanities Projects in Libraries program, submitted to the Division of General Programs, for projects beginning after March 1988.
10. *Date:* May 9–10, 1988
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after October 1, 1988.
11. *Date:* May 16, 1988.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 315
    Program: This meeting will review applications in Higher Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after August 1, 1988.
12. *Date:* May 17–18, 1988.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review applications submitted for Humanities Projects in Media, submitted to the Division of General Programs, for projects beginning after October 1, 1988.
13. *Date:* May 19, 1988.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after August 1988.
14. *Date:* May 23, 1988.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 316–2
    Program: This meeting will review applications for Summer Seminars for School Teachers in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.
15. *Date:* May 23, 1988.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review applications in Higher Education Programs, submitted to the Division of Education, for projects beginning after August 1988.
16. *Date:* May 24, 1988.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 316–2
    Program: This meeting will review applications for Summer Seminars, for School Teachers in History, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.

17. *Date:* May 25, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications for Summer Seminars for School Teachers in Philosophy and Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.

18. *Date:* May 25, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications in Higher Education, submitted to the Division of Education Program, for projects beginning after August 1988.

19. *Date:* May 25, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review applications for Summer Seminars for School Teachers in Foreign and Classical Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.

20. *Date:* May 26, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications for Summer Seninars for School Teachers in Social and Political Science, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.

21. *Date:* May 26, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review applications for Summer Seminars for School Teachers in American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after October 1, 1988.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 88–8364 Filed 4–14–88; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 10, No. 3).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The report to Congress is for the third calendar quarter of 1987. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. During the report period, there were two abnormal occurrences at the nuclear power plants licensed to operate. The first involved a significant degradation of plant safety at Oyster Creek; and the second involved a steam generator tube rupture at North Anna Unit 1.

There were four abnormal occurrences at the other NRC licensees. The first involved a therapeutic medical misadministration; the second involved a failure to report diagnostic medical misadministrations; the third involved the suspension of a well logging company's license; and the fourth involved the suspension of an industrial radiography company's license. There were two abnormal occurrences reported by an Agreement State (New York). The first involved a hospital contamination incident and the second involved therapeutic medical misadministrations.

The report also contains information updating some previously reported abnormal occurrences.

A copy of the report is available for public inspection and/or copying at the NRC Public Document Room, 1717 H Street NW., Washington DC 20555, or at any of the nuclear power plant local Public Document Rooms throughout the country.

Copies of NUREG–0090, Vol. 10. No. 3 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. A year's subscription to the NUREG–0090 series publications, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Washington, DC this 5th day of April 1988.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 88–8353 Field 4–14–88; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–341]

Detroit Edison Co. and Wolverine Power Supply Cooperative, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the schedular requirements of Appendix J to 10 CFR Part 50 to the Detroit Edison Company (DECo) and the Wolverine Power Supply Cooperative, Incorporated (the licensees) for the Fermi–2 Plant located at the licensees' site in Monroe County, Michigan. The exemption was requested by the licensees by letter from DECo dated February 22, 1988.

Environmental Assessment

Identification of Proposed Action

The exemption would provide, for three containment isolation valves on the Residual Heat Removal (RHR) System, a one-time relief from the requirement of section III.D.3 of Appendix J, 10 CFR Part 50, to perform Type C local leak rate tests (LLRTs) at each plant shutdown for refueling but in no case at intervals greater than two years. The licensees have proposed to conduct these tests prior to startup from the first refueling outage currently scheduled for late 1989.

The Need for the Proposed Action

The end of the initial 24-month testing intervals for the three containment isolation valves is April 1988. With the exception of these three valves, the licensees either have, or plan to perform the required Type C tests. Local leak rate tests are being conducted during the current March/April 1988 outage. The licensees have stated that due to plant constraints it is not possible to perform the testing of these three valves without extending both loops of the RHR shutdown cooling inoperable.

The licensees have further indicated that it is not desirable for them to schedule an additional outage, nor to extend other scheduled outages, for the sole purpose of performing these LLRTs, as this would result in a net increase in

overall outage time or would subject the plant equipment and systems to potential adverse effects of an additional shutdown and startup operation.

Testing of the valves covered by the requested exemption would require one or both of the following plant conditions:

(1) Reactor vessel head removal.

(2) Both RHR shutdown cooling loops rendered inoperable.

The licensees do not plan to remove the reactor vessel head until the first refueling outage. To render both loops of the RHR shutdown cooling inoperable, the licensees would either be required to remove the drywell and reactor heads and flood the vessel, or wait until decay heat is reduced such that the reactor could be cooled by alternate means. The next scheduled outage where removal of the vessel head would occur is the first refueling outage.

Environmental Impacts of the Proposed Action

The licensees have indicated that Type C LLRTs have been completed for the valves covered by the requested exemption three times (August 1984, May 1985 and April 1986). No refurbishment of the three valves has been required. These valves are normally closed during power operation and any deterioration in the overall integrity is expected to be gradual. The total of the Type C leakage rates for these valves is not a significant portion (0.94%) of the allowable leakage limit. Therefore, the licensees have concluded that the granting of the requested exemption would not present a significantly increased probability of containment leakage other than contemplated in Appendix J.

The Commission's staff has determined that granting the proposed exemption would not significantly increase the probability or amount of expected containment leakage and that containment integrity would thus be maintained. Consequently, the probability of accidents would not be increased, nor would the post-accident radiological releases be greater than previously determined. Neither would the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves a change to surveillance and testing requirements. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Because the Commission has concluded that there is no significant environmental impact associated with the proposed exemption, any alternative would have either no or greater environmental impact. The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts attributed to the facility but would result in an outage of considerable duration with attendant costs and would result in an unnecessary loss of power to the grid.

Alternative Use of Resources

This action involves no use of resources not previously considered in connection with the "Final Environmental Statement Related to Operation of Fermi-2," dated August 1981.

Agencies and Persons Consulted

The Commission's staff reviewed the licensees' request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with aspect to this action, see the application for exemption dated February 22, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 7th day of April 1988.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-8390 Filed 4-14-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 219]

GPU Nuclear Corp. and Jersey Central Power & Light Co., Oyster Creek Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix J to 10 CFR Part 50 to GPU Nuclear Corporation, et al. (the licensee) for the Oyster Creek Nuclear Generating Station, located at the licensee's site in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The licensee is requesting an exemption from Paragraph III.A.3 of 10 CFR Part 50 Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." In 1973, Appendix J was issued to establish requirements for primary containment leakage testing and incorporated by reference, ANSI N45:4–1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." This standard requires that containment leakage calculations be performed by using either the point-to-point method or the total time method. The total time method was used the most by the nuclear industry until about 1976.

At this time, licensees who wish to use mass-point must submit an application for exemption from the Appendix J requirement that containment integrated leak rate tests will conform to ANSI N45.4. The exemption proposed by the licensee would be granted until pending changes to Appendix J become effective.

In the mass-point method, the mass of air in containment is calculated and plotted as a function of time and leakage is calculated from the slope of the linear least squares.

With the present developments in technology, the mass-point method has gained increasing recognition.

The superiority of the mass-point method becomes apparent when it is compared with the two other methods. In the total time method, a series of leakage rates are calculated on the basis of air mass differences between an initial data point and each individual data point thereafter. If for any reason (such as instrument error, lack of temperature equilibrium, ingassing or outgassing) the initial data point is not accurate, the results of the test will be affected. In the point-to-point method, the leak rates are based on the mass

difference between each pair of consecutive points which are then averaged to yield a single leakage rate estimate. Mathematically, this can be shown to be the difference between the air mass at the beginning of the test and the air mass at the end of the test expressed as a percentage of the containment air mass. It follows from the above that the point-to-point method ignores any mass readings during the test and thus the leakage rate is calculated on the basis of the difference in mass between two measurements taken at the beginning and at the end of the test, which are 24 hours apart.

The licensee's request and bases for exemption are contained in a letter dated February 19, 1988.

The Need for the Proposed Action

The exemption is needed to allow use of the mass-point analysis method at Oyster Creek Nuclear Generating Station.

Environmental Impacts of the Proposed Action

The erratic behavior of the total time method creates a higher probability of unnecessarily failing a containment integrated leakage rate test (note that the calculational procedure is independent of containment tightness) possibly resulting in increased test frequency, critical path outage time, and exposure to test personnel.

Radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents, or have any other environmental impact. Therefore, the Commission concludes that there are no measurable radiological or non-radiological environment impacts associated with the proposed exemption.

Alternative to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request that supports the proposed exemption. The staff did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the request for exemption dated February 19, 1988. Copies of the request for exemption are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 6th day of April 1988.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–8333 Filed 4–14–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–317]

Baltimore Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–53, issued to the Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1 located in Calvert County, Maryland.

The amendment would make the following changes in accordance with the licensee's application for amendment dated February 12, 1988, as supplemented on March 21, 1988 and twice on March 25, 1988:

1. Modify Technical Specification (TS) Limiting Condition for Operation (LCO) 3.1.1.4 by adding a figure that provides the upper limits for moderator temperature coefficient (MTC) and increases this MTC limit for thermal power levels above 70% rated thermal power (RTP) from less positive than 0.2 E–4 delta k/k/°F to the linear equation where the MTC limit is less positive than $+[(.9 + 4 (1-P))/3]$ E–4 delta k/k/°F where P is the fraction of RTP. Thus, at 70% RTP, MTC must be less positive than +0.7 E–4 delta k/k/°F and at 100% RTP MTC must be less positive than +0.3 E–4 delta k/k/°F.

2. Increase the minimum required shutdown margin of TS LCO 3.1.1.1 above the currently required +3.5 delta k/k in accordance with the linear progression where the shutdown margin limit shall be greater than or equal to $+[3.5 + 1.5(P)]$ delta k/k where P is the fraction of RTP. Thus, at 0% RTP the shutdown margin limit is +3.5 delta k/k but at 100% RTP the limits is +5.0 delta k/k.

3. Change the TS Figure 3.1–2, "CEA Group Insertion Limits vs. Fraction of Allowable Thermal Power for Existing RCP Combination," Bank 5 Transient Insertion Limit from the linear progression with values of 25% insertion at 90% RTP and 35% insertion at 100% RTP to a constant insertion limit of 35% between 90% and 100% RTP.

4. Reduce unnecessary Axial Shape Index (ASI) trips below 70% RTP and provide additional operating flexibility by:

a. Modifying TS Figure 2.2–1, "Peripheal Axial Shape Index vs. Fraction of Rated Thermal Power," by increasing the acceptable operation region below 70% RTP to the area bounded by the linear equations for the ASI limits, where

(1) ASI limit $= \pm[.6 + \frac{2}{3} (.4–P)]$ (P is the fraction of RTP) between 40% and 100% RTP, and

(2) ASI limit $= \pm 0.6$ at powers below 40% RTP. The current ASI limits are ± 0.04 at powers below 70% RTP;

b. Expanding the acceptable operation region of TS Figure 3.2–2, "Linear Heat Rate Axial Flux Offset Control Limits," and TS Figure 3.2–4, "DNB Axial Flux Offset Control Limits," by increasing the negative ASI limit below 50% RTP from the current value of −0.3 to

(1) The linear equation limit, between 15% and 50% RTP, of the negative ASI limit $= -[0.3 + \frac{3}{7} (.5–P)]$, where P is the fraction of RTP;

(2) Below 15% RTP, the negative ASI limit $= -0.45$.

5. Reflect the lowering of the departure from nucleate boiling ratio (DNBR) limit to 1.16 due to the incorporation of an extended statistical combination of uncertainties methodology through modifying Figures 2.2–2, "Thermal Margin/Low Pressure Trip Setpoint Part 1 (ASI v. A_t)," and 2.2–3, "Thermal Margin/Low Pressure Trip Setpoint Part 2 (Fraction of Rated Thermal Power v. QR_t)," by

a. Changing the equation for the pressure variable trip from P(TRIP VAR) = 2061 (Q_{DNB}) + 15.85 (T_{IN})—8915 to P (TRIP VAR) = 2892 Q_{DNB} + 17.16 (T_{IN})—10682;

b. Changing Q_{DNB}, which equals $QR_1 \times A_1$, by increasing QR_1 from the values of

$QR_1 = .235 + (628/781)$ P between 0% and 78.1% RTP

$QR_1 = .863 + (109/191) \times (P-.781)$ between 78.1% and 97.2% RTP

$QR_1 =$ P above 97.2% RTP

to

$QR_1 = .3 + (11/12)$ P between 0% and 60% RTP

$QR_1 = .85 + (3/8) \times (P-.6)$ between 60% and 100% RTP

$QR_1 =$ P above 100% RTP

where P is the fraction of RTP.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; of (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee evaluated the proposed changes against the standards in 10 CFR 50.92 and has determined that the amendment would not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated * * *

To support the Unit 1 Cycle 10 reload core design and the associated TS changes, eighteen design basis events were reviewed and one of these events was reanalyzed (the Steam Rupture event). All eighteen design basis events, including the Steam Line Rupture event, were bounded by the results of the previously accepted reference cycle (Unit 2 Cycle 8).

An emergency core cooling system (ECCS) performance analysis was performed for Unit 1 Cycle 10 to demonstrate compliance with 10 CFR 50.46, "Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Nuclear Power Reactors." This analysis justified an allowable Peak Linear Heat Generation Rate of 15.5 kw/ft, the current limit for both Units 1 and 2.

The Small Break Loss of Coolant Accident (SBLOCA) analyses confirm that the results previously reported for Unit 1 Cycle 8 (SBLOCA reference cycle for Unit 1 Cycle 10) also bound the SBLOCA results for the Unit 1 Cycle 10 reload core design.

Thus, as provided in the previously described analyses, the probability or consequences of any accidents previously evaluated would not increase signficantly as a result of the proposed Unit 1 Cycle 10 reload TS changes.

(ii) Create the possibility of a new or different type of accident from any accident previously evaluated * * *

The design of Unit 1 Cycle 10 closely follows that of the reference cycle, Unit 2 Cycle 8. The four ANF demonstration lead assemblies, included in the Unit 1 Cycle 10 core, do not impact the core design in any adverse manner. All nuclear, mechanical, thermal-hydraulic, transient and LOCA safety analyses performed for Cycle 10 core design, envelope the four ANF assemblies. The analyzed performance of those assemblies is determined to be very similar to that of the balance of the core.

The impact that the proposed TS changes would have on the operation and safety of the plant was evaluated to determine if a new or different type of accident would be created. The reductions in safety margins to the Specific Acceptable Fuel Design Limits were evaluated to determine if it were possible for a new accident type to be created, different from that was already analyzed. It was determined that no changes in plant hardware or manner of operation result from these proposed changes. All results and conclusions of the LOCA and non-LOCA transient safety analyses were evaluated to determine whether the possibility of a new type accident was created, since some of those analyses results are different from results previously presented for NRC review. Thus, this proposed change in operation will not create the possibility of any new or different types of accidents from any previously evaluated.

(iii) Involve a significant reduction in a margin of safety * * * All LOCA and non-LOCA transient safety analyses were evaluated/reanalyzed, and the reduction in the margin or safety between each proposed TS change and the affected SAFDL was determined. Although this margin to safety is reduced in some instances (i.e., the changes proposed the Axial Power Distribution Trip Limiting Safety System, the Linear Heat Rate Axial Flux Offset Control Limits, the DNB Axial Flux Offst Control Limits, the Shutdown Margin, and the Power Dependent Insertion Limit proposed changes), these reductions were not significant reductions as sufficient margin remains between the proposed limits and the current safety limits.

Based upon the above, the NRC staff proposes to determine that the TS changes proposed for the Unit 1 Cycle 10 reload involve no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

By May 16, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action wil occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to D. A. Brune, Jr., General Counsel, Baltimore Gas & Electric Company, P. O. Box 1475, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Local Public Document Room, Calvert County Library, Prince Frederick, Maryland.

Dated at Rockville, Maryland, this 12th day of April, 1988.

For the Nuclear Regulatory Commission.

Scott Alexander McNeil,

Project Manager, Project Directorate I–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–8361 Filed 4–14–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 30–29319, License No. 42–26838–01, EA 87–145]

H & G Inspection Co., Inc., Order Imposing Civil Monetary Penalty

H & G Inspection Company, Inc., Houston, Texas (licensee) is the holder of NRC Materials License No. 42–26838–01, issued by the Nuclear Regulatory Commission (NRC/Commission) on August 11, 1986. The license was amended on September 15, 1986. The license authorizes the licensee to possess and use sealed sources for industrial radiography and replacement of sources in accordance with the conditions specified therein.

II

A routine unannounced radiation safety inspection of the licensee's activities was conducted at the licensee's facilities at Evanston, Wyoming, on June 29, 1987. The inspection was a followup to an event that had been previously reported to the NRC in the licensee's letter of April 21, 1987. The event involved the overexposure of a radiographer to a cumulative whole body dose of 3.135 rems during the period from January 21 to April 9, 1987. The circumstances surrounding this overexposure reflect a lack of management control over the safe use of licensed material. This violation is of further concern to the NRC inasmuch as the licensee was cited in July 1986 for an overexposure to a radiographer which occurred in the foruth quarter of 1985. A Notice of Violation was issued July 21, 1986, and a Civil Monetary Penalty of Two Thousand Five Hundred Dollars ($2,500) was assessed and paid.

As a result of the 1987 overexposure, a written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated October 26, 1987. The Notice stated the nature of the violation, the provision of the NRC's requirement that the licensee had violated, and the amount of the civil penalty proposed for the violation. The licensee responded to th Notice of Violation and Proposed Imposition of Civil Penalty by letter dated December 16, 1987. The licensee's response was supplemented by letter dated February 11, 1988. In its response, the licensee denied the violation and sought mitigation of the proposed civil penalty.

III

After consideration of the licensee's response denying the violation and the statements of fact, explanation, and request for migitation of the civil penalty

contained therein, the Deputy Executive Director for Regional Operations has determined as set forth in the Appendix to this Order that the violation occurred as stated and the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Seven Thousand Five Hundred Dollars ($7,500) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV.

If the hearing is requested, the Commission will issue an order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland, this 7th day of April 1988.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Appendix—Evaluations and Conclusions

On October 26, 1986, a Notice of Violation and Proposed Imposition of Civil Penalty (NOV) was issued for the violation identified during an NRC inspection. H & G Inspection Company responded to the Notice on December 16, 1987 and February 11, 1988. The licensee denied the violation and requested mitigation of the civil penalty. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

I. Restatement of Violation

10 CFR 20.101(a) limits the whole body exposure of an individual in a restricted area to one and one quarter rems per calendar quarter, except as provided by 10 CFR 20.101(b). Paragraph (b) provides, in part, that a licensee may permit an individual in a restricted area to receive a total occupational dose to the whole body greater than one and one quarter rems per calendar quarter, provided that such dose during any calendar quarter shall not exceed three rems and other conditions not relevant here are satisfied.

Contrary to the above, a radiographer working for H & G Inspection Company, Inc. in the state of Wyoming received a whole body dose of 3.135 rems in the calendar quarter from January 10 through April 9, 1987.

This is a Severity Level III violation (Supplement IV).

Civil Penalty—$7,500.

Summary of Licensee's Response

The licensee denied the violation, stating that the system used to measure whole body dose and the documentation in support of that system indicated that there was an overexposure of the radiographer when, in fact, no such overexposure actually occurred.

The licensee stated that there were four specific reasons that contributed to the recorded overexposure: (a) The radiographer failed to follow verbal instructions given to him and continued to work in areas where he picked up additional radiation exposure, (b) there was a lapse of almost 20 days between the time that film badges were sent in from the Wyoming site and the time H & G Inspection became aware of the excessively high readings and notified the employee, (c) the film badge results were high as shown by a third party evaluation of the radiographer's exposure, and (d) there was inadequate management control over parts of the program that could have prevented the event, including the length of time to learn of the overexposure, control over remote site personnel, and a lack of understanding by employees of the mandatory nature of the procedures regarding the length of time they can work in the field.

NRC Evaluation of Licensee's Response

The NRC staff has carefully reviewed the licensee's response and concluded that the violation occurred as stated. Three of the licensee's reasons for the recorded overexposures: (a) The radiographer failed to follow verbal instructions, (b) the lapse of time for H & G to notify employees of high readings, and (c) inadequate management control that could have prevented the event, are examples of H & G's management weakness in implementing its responsibilities. This was the reason for the proposed civil penalty. It is the licensee's responsibility to establish a system for evaluating and maintaining compliance with the dose limitations specified in the NRC Rules and Regulations.

The licensee's argument that no such overexposure actually occurred and that the film badge results were high as shown by a third party evaluation are not accepted by the NRC. Central to the third party's evaluation is an assumption that the individual was a distance of 28 feet from the collimated source during the entire time. The third party's assumption in this regard cannot be accepted since it fails to demonstrate that the individual did not perform his duties near an unretracted source which would account for the overexposure.

II. Summary of Licensee's Request for Mitigation

The licensee denied the violation and requested mitigation of the Civil Penalty based on errors in the NRC's letter transmitting the Notice of Violation and extenuating circumstances that dictate remission or mitigation of the Civil Penalty. The licensee stated that the letter was substantially in error by suggesting that H & G Inspection did not take the overexposure very seriously when they had a long history of compliance with regulatory programs throughout the country, and there had been only a small number of overexposures compared to the number of employees and amount of work over the 11 years that H & G Inspection has been in this business. Further, the licensee stated that the last overexposure occurred in 1985 and not 1986 as referenced in the NRC letter. In regard to extenuating circumstances, the licensee stated that H & G Inspection is a small company and the commitments

for corrective actions will increase the cost of doing business by a substantial amount. The licensee also asserts that the amount of the Civil Penalty proposed is significantly higher than the amount proposed or issued by the NRC for other violations of this type. In addition, the licensee states it has undertaken a series of programmatic changes including: (1) revising its program manual, (2) revising and writing new forms and procedures, and (3) hiring a third-party consultant to review the implementation of its program on a monthly basis.

NRC Evaluation of Licensee's Request for Mitigation

The licensee's contention that the NRC October 26, 1987, letter transmitting the Notice of Violation erroneously refers to an overexposure in 1986 that actually occurred in 1985 is correct. However, this typographical error is immaterial to the civil penalty since NRC typically reviews events within the last two years and this 1985 exposure was in this period and resulted in a Notice of Violation and Proposed Imposition of Civil Penalty issued on July 21, 1986. (See Part 2, Appendix C, V.B.)

With regard to the licensee's argument that the NRC's letter transmitting the civil penalty was in error by suggesting that H & G did not take the overexposure seriously, the NRC maintains that its letter did not state that the licensee did not take the overexposure seriously but stated that "significant actions were not taken to reduce dosage accumulations to prevent the ultimate overexposure" and that "improvement in your management control over personnel exposures" was needed.

The licensee's claim that there have been only a small number of overexposures compared to the number of employees and the amount of work over the 11 years that H & G has been in business is also unpersuasive. On July 21, 1986 the NRC issued the civil penalty in the amount of $2,500 for a whole body exposure of 3.4 rems resulting from failures to perform surveys after each radiographic exposure and failure to follow operating procedures. Having another overexposure less than a year after being cited for an overexposure is rare and indicates that the licensee's corrective actions were ineffective. The licensee noted in its response that "there was inadequate management control over the parts of the program that could have prevented this event * * *."

With respect to the licensee's claim that H & G is a small company and the commitments for corrective actions will increase the cost of doing business by a substantial amount, the NRC maintains that the cost of implementing additional administrative controls to ensure future compliance with NRC regulatory requirements is an expected financial obligation. There has not been any indication or claim that such cost combined with the Civil Penalty will be of such magnitude that it will put the licensee out of business or adversely affect its ability to safely conduct licensed activities (See Part 2, Appendix C, V.B.). NRC enforcement action is taken as necessary to ensure that each licensee will achieve and maintain compliance with NRC regulatory requirements in the interest of public health and safety.

As to H & G's corrective actions, the actions described in the responses appear appropriate and comprehensive. However, mitigation for such corrective action was not warranted because they were not timely and were taken following NRC suggestions rather than on the licensee's initiatives.

The licensee further claims that the amount of the Civil Penalty proposed is significantly higher than the amount proposed or issued by the NRC for other violations of this type. The licensee stated that another company engaged in similar work at the Shute Creek site was only issued a $500 civil penalty for much more serious violations. The NRC presumes the licensee is referring to the civil penalty issued on February 28, 1985 to A–1 Inspection, Inc. (EA 85–08). NRC normally does not compare the civil penalty of one case to another case since each escalated enforcement action is considered on its own merits. However, in the A–1 Inspection, Inc. case, the penalty was reduced because of A–1's corrective actions taken before the enforcement conference and the licensee's financial status. In the H & G case, corrective action was not taken prior to the enforcement conference and H & G, while a small company, is considerably larger than A–1. In addition, H & G previously had an overexposure during the fourth quarter of 1985.

III. NRC Conclusion

The NRC staff concludes that the violation occurred as stated in the Notice of Violation, and further, a sufficient basis for mitigation of the Civil Penalty was not provided by the licensee. Consequently, the proposed Civil Penalty in the amount of Seven Thousand Five Hundred Dollars ($7,500) should be imposed.

[FR Doc. 88–8334 Filed 4–14–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322–OL–5 (EP Exercise)]

Long Island Lighting Co., Shoreham Nuclear Power Station, Unit 1; Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of March 18, 1988, oral argument on the appeal of Long Island Lighting Company (LILCO) from the Licensing Board's December 7, 1987, partial initial decision (LBP–87–32) will be heard at 9:30 a.m. on Thursday, April 28, 1988, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For The Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

Dated: April 8, 1988.

[FR Doc. 88–8352 Filed 4–14–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–220]

Niagara Mohawk Power Corp., Nine Mile Point Nuclear Station, Unit 1; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–63, issued to the Niagara Mohawk Power Corporation (the licensee), for operation of the Nine Mile Point Nuclear Station, Unit 1 located in Scriba, New York. The proposed amendment is in response to the licensee's submittal dated April 5, 1988, as amended April 8, 1988.

The amendment would add new Technical Specifications 3.7.1 and 4.7.1, "Special Test Exception—Shutdown Margin Demonstration," and associated Bases to allow shutdown margin testing in the shutdown condition-cold and would modify Technical Specifications Definitions 1.1a "Shutdown Condition-Cold," and 1.1b, "Shutdown Condition-Hot," to accommodate the new Technical Specifications. These changes would permit reactor coolant system pressure testing (system leakage and hydrostatic testing) and control rod

scram time testing to be performed with the mode switch in the refuel position and the reactor coolant temperature greater than 212 °F. The proposed changes will also facilitate scram recovery operations. The proposed changes include an addition to the Table of Contents.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment was requested to allow system pressure testing and scram time testing of control rods with the mode switch in the refuel position and the reactor coolant temperature greater than 212 °F and to allow the mode switch to be in the refuel position during scram recovery.

The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated for the following reasons.

The change to allow scram time testing with the mode switch in the refuel position has no effect on the probability or the consequences of a loss of coolant accident (LOCA). The probability of a leak in the reactor coolant pressure boundary during the hydrostatic test and subsequent scram time testing is not increased by allowing the mode switch to be in the refuel position. Furthermore, because the systems required to be operable to mitigate the consequences of a LOCA (core spray and containment spray) will be operable and the temperature of the reactor coolant will be less than during normal operation, this change will not significantly increase the consequences of a LOCA. In addition, when the reactor mode switch is placed in the refuel position following a scram, all safety systems required to be operable based on the reactor coolant temperature and pressure will be operable for accident mitigation. Therefore, the placing of the mode switch in the refuel position during scram recovery will not increase the probability or consequences of a LOCA.

Since refueling activities will not be occurring and only one control rod can be withdrawn at a time in the refuel mode, the probability and consequences of a refueling accident are not affected by the above listed changes. Furthermore, the reactor vessel head is in place. Therefore, a refueling accident cannot occur. In addition, the placing of the reactor mode switch in the refuel position following a scram, or during hydrostatic testing or scram time testing, does not place the reactor in an unanalyzed condition. Therefore, the probability and consequences of a refueling accident are not increased.

The change to allow shutdown margin demonstration to be performed in the shutdown condition will assure that the probability of an inadvertent criticality is not increased. In addition, only one control rod can be withdrawn at a time in the refuel mode. Therefore, the probability and consequences of a control rod drop accident are not increased. Consequently, the proposed change will not increase the probability or consequences of an accident previously evaluated.

The change to revise the Table of Contents is administrative in nature and will not affect the probability or consequences of an accident previously evaluated.

The proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated for the following reasons.

The only potential accident of a new or different kind identified by the licensee as associated with having the model switch in the refuel position while performing the hydrostatic testing and scram time testing of the control rods is the potential for an inadvertent criticality occurring with the reactor coolant system "solid" (filled with water). However, the performance of the control rod exercising and the shutdown margin demonstration test will ensure that the reactor cannot be made critical with only one control rod withdrawn. This test, in conjunction with the interlock, which prevents more than one control rod from being withdrawn with the mode switch in the refuel position, will ensure an inadvertent criticality does not occur during the system pressure test. In addition, all safety systems required to be operable in the shutdown condition when reactor coolant temperature is greater than 212 °F will be operable except for those systems that are not required to be operable during hydrostatic testing. When the mode switch is placed in the refuel position, during scram recovery, all safety systems required to be operable based on reactor coolant temperature and pressure will be operable. Since the safety systems required to mitigate an accident will be operable when the mode switch is placed in the refuel position, the plant will not be in an unanalyzed condition. Therefore, there is not a possibility of creating a new or different kind of accident from any accident previously evaluated.

The change to revise the Table of Contents is administrative in nature and will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not involve a significant reduction in a margin of safety for the following reasons.

The proposed amendment is to allow control rod scram time testing to be performed with the mode switch in the refuel position and the reactor coolant system temperature greater than 212 °F and to allow the reactor mode switch to be placed in the refuel position during scram recovery. Because the reactor vessel head will be in place, primary containment integrity maintained and all systems required to be operable in accordance with the Technical Specifications will be operable, the proposed changes will not have any effect on any design basis accident or safety limit. In addition, the changes include a provision to allow shutdown margin demonstration in the shutdown condition—cold to ensure that the reactor cannot be made critical by the withdrawal of any one control rod. This test will be performed before the scram time testing. Therefore, the proposed changes will not reduce a margin of safety.

The change to revise the Table of Contents is administrative in nature. Therefore, it has no affect on a margin of safety.

Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice.

Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Goergetown Road, Bethesda, Maryland, from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 16, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the preceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 5, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room, Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 11th day of April 1988.

For The Nuclear Regulatory Commission.

Robert A. Benedict,

Project Directorate I–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–8335 Filed 4–14–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-388]

Pennsylvania Power & Light Co. and Allegheny Electric Coop. Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. NPF-22 issued to Pennsylvania Power and Light Company and Allegheny Electric Cooperative Inc., for operation of Susquehanna Steam Electric Station, Unit 2, located in Luzerne County, Pennsylvania.

In accordance with the licensee's application dated April 8, 1988, the proposed amendment would delete reference to recirculation fans 2V418 A&B and fan associated breakers, and add fans 2V415 A&B and the associated breakers to the Technical Specifications. The change is necessary as a result of the licensee's decision not to proceed with its previously scheduled modifications to install new fans 2V418 A&B and to continue to rely upon existing fans 2V415 A&B.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amended request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its April 8, 1988 application provided the following arguments in support of a determination that the application involves a no significant hazards consideration.

The following three questions are addressed below for each of the proposed changes:

I. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

II. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

III. Does the proposed change involve a significant reduction in a margin of safety?

• Specification 3.6.6.2.

I. No. The proposed change will require a unit cooler subsystem of the same airflow capability as the currently required recirculation fans. Utilizing the existing 2V415 A&B fans for this purpose ensures that the post-LOCA hydrogen mixing capability of the drywell air flow system is consistent with the assumptions of the existing safety analysis.

II. No. The equivalent airflow capability of the existing fans as compared to the currently required fans precludes the potential for a new event; since the resulting configuration represents the original design, all pertinent safety analyses have already been performed.

III. No. The airflow capability required to support the hydrogen mixing safety function is unchanged by this proposal. Therefore, safety margin remains the same.

• Table 3.8.4.1-1.

I. No. Primary containment penetration overcurrent protection is only required when loads exist which could jeopardize their associated penetrations. In this case, the ——— fans 2V418 A&B, are not being installed. Therefore, no circuit breakers are required to protect the associated penetrations to ensure primary containment integrity, and consequently, no previous safety analysis is affected.

II. No. The currently required circuit breakers are not needed to perform any safety function for the reasons described in I above. Therefore, not installing them cannot result in a new event requiring further safety analysis.

III. No. Not installing a device that has no safety function to perform has no impact on safety margin.

The staff concurs with the above licensee evaluation and its conclusions. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 16, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to itervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addresed to Walter R. Butler, Director, Project Directorate I–2, Division of Reactor Projects I/II: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 8, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 12th day of April 1988.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I–2, Division of Reactor Projects I/II.

[FR Doc. 88–8336 Filed 4–14–88; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Guidelines for Federal Statistical Activities

AGENCY: Office of Management and Budget.

ACTION: Notice extending public comment period on a Draft Circular Establishing Guidelines for Federal Statistical Activities.

SUMMARY: The Office of Management and Budget (OMB) is extending from April 19, 1988 to July 15, 1988, the period for public comment on a draft Circular, *Guidelines for Federal Statistical Activities.*

DATES: Public comments on the draft Circular must be received on or before July 15, 1988.

ADDRESSES: Comments should be made in writing and sent to Dorothy M. Tella, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503. All comments will be available for public examination at this address.

FOR FURTHER INFORMATION CONTACT: Dorothy M. Tella, (202) 395–3093.

SUPPLEMENTARY INFORMATION: On January 20, 1988, OMB published in the **Federal Register** (pp. 1542–1552) a notice soliciting comment on a draft Circular, *Guidelines for Federal Statistical Activities.* To date OMB has received relatively few comments from members of the public and is therefore extending from April 19, 1988, to July 15, 1988, the deadline for comments from members of the public. Federal agencies should provide their comments to OMB on or before the original deadline of April 19, 1988.

Darrell A. Johnson,

Assistant Director for Administration.

[FR Doc. 88–8253 Filed 4–14–88; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of RI 30–10 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S. Code, chapter 35), this notice announces a new information collection from the public. RI 30–10, the Disabled Dependent Questionnaire, is completed by a retired Federal employee or a surviving family member, to provide medical evidence regarding the nature and degree of disability of an unmarried dependent child. OPM examines the evidence to determine if the child meets the requirements for entitlement to annuity benefits as a disabled surviving

family member and/or continued health benefits coverage. There will be approximately 2,500 questionnaires completed annually, for a total public burden of approximately 1,250 hours. For copies of this proposal, call William C. Duffy, Agency Clearance Office, on (202) 632-7714.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415,

and

Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Brison, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 88-8315 Filed 4-14-88; 8:45 am]

BILLING CODE 6325-01-M

POSTAL SERVICE

Implementation of Final International Postage Rates

AGENCY: Postal Service.

ACTION: Notice of Changes in International Rates and Fees.

SUMMARY: The Postal Service, following consideration of comments submitted in reponse to its request for comments on proposed changes in international rates and fees, 53 FR 6892, hereby gives notice that it is implementing changes in international rates and fees effective at 12:01 a.m., April 17, 1988. The rates and fees published herein supersede the interim rates and fees announced March 28, 1988 (53 FR 10,007). The interim rates and fees will cease to be effective at the same time these rates take effect.

EFFECTIVE DATE: 12:01 a.m., April 17, 1988.

FOR FURTHER INFORMATION CONTACT: John F. Alepa (202) 268-2664.

SUPPLEMENTARY INFORMATION: On March 3, 1988, the Postal Service published in the **Federal Register** (53 FR 6892) a notice of proposed changes in international rates and fees. The Postal Service requested comments on the proposed rate and fee changes and set April 1, 1988, as the last day for submitting comments. The Postal Service proposed to implement international rate and fee changes at the same time it implemented domestic rate and fee changes. At that time, a Postal Service request for new domestic rates and fees was pending before the independent Postal Rate Commission.

On March 28, 1988, the Postal Service published notice of implementation of changes in international rates and fees on an interim basis. The Postal Service noted that it had stated in its March 3, 1988, notice that to reduce administrative difficulties and to make rate changes easier for mailers, it proposed to implement international rate and fee changes at the same time it implemented domestic rate and fee changes. The Postal Service then stated that the Board of Governors of the Postal Service had set April 3, 1988, as the effective date for domestic rate and fee changes, and that because the deadline for submitting comments on the proposed international rates and fees was April 1, 1988, there would not be sufficient time to evaluate the comments and implement final international rates and fees on April 3, 1988. The Postal Service said, therefore, that it was implementing changes in international rates and fees on an interim basis on April 3, 1988, pending full consideration of all comments received. The Postal Service stated that a document announcing final international rates and fees would be published as soon as practicable after April 3, 1988. The interim rates and fees were generally the same as the rates proposed in the March 3 notice, with some modifications to take into account certain rate and fee adjustments for domestic services that had been recommended by the independent Postal Rate Commission and approved by the Governors of the Postal Service.

Thirteen comments were received on or before April 1, 1988. Of the comments received, two raised questions about specific rates to Canada and Mexico. Ten comments were from representatives of the publishing industry concerning the magnitude of the proposed increases in rates for publishers' periodicals and the short amount of time that would elapse between the announcement of the proposed rate increases and their effective date. Among these comments were suggestions that rate increases for publishers' periodicals be no greater than the rate increases for domestic second-class mail and that the rate increases for publishers' periodicals be postponed to allow publishers more time to adjust to the rate changes. The other comment suggested that the Postal Service submit its proposed changes in international rates and fees to the Postal Rate Commission. Each of these comments is addressed below.

I. Canadian and Mexican Rates

In the past, letter mail rates for Canada and Mexico were set at the same level as domestic rates. In its March 3 Notice, the Postal Service departed from this pattern of rate relationships by proposing to establish letter mail rates for Canada that were higher than domestic letter rates. A number of comments inquired about the reason for this and similar changes in rate relationships.

One commenter observed that the rates for Mexico generally were the same as domestic rates. The commenter asked why those rates were not included among the fees for special services that the Postal Service had noted were subject to revision, upon the outcome of the then-pending domestic proceeding before the Postal Rate Commission, to make them the same as the special service fees for comparable domestic services. Rates for Mexico are developed separately from domestic rates and reflect the costs of the mail to Mexico. In the rate design, it was considered advantageous from the point of view of administering international rates to have rates to Mexico that were the same as domestic rates when possible, but which departed from domestic rates when costs required it. Because the rates to Mexico, unlike the special service fees, were not so closely tied to domestic rates, it would not have been appropriate to mark them as automatically subject to revision so that they would be the same as domestic rates. However, the post and postal card rate for Mexico was proposed to be 16 cents. In its March 4, 1988 recommended decision, the Rate Commission recommended a domestic post and postal card rate of 15 cents. The Postal Service has decided to change the post and postal card rate to Mexico to 15 cents to be the same as the domestic post and postal card rate. This will avoid requiring mailers to add postage to domestic cards to send them to Mexico and will also avoid having the Postal Service print separate postal cards just for Mexico.

One commenter asked why rates for letter mail going to Canada were higher than domestic letter mail rates and letter mail rates for Mexico. This departure from this historic rate pattern was brought about by a change in the way the United States and Canada charge terminal dues, which are the amounts paid to foreign postal administrators for

delivery of mail in the country of destination, to each other. In the past, the terminal dues charged by both Mexico and Canada were the dues established by the Universal Postal Union. Because the UPU rates did not fully reflect differences in the costs of handling different kinds of mail, the Postal Service and Canada Post Corporation, the Canadian postal administration, recently entered into an arrangement whereby the terminal dues that would be charged would be based on each country's cost of delivering mail orginating in the other country. This cost-based arrangement increased the charge for delivery of light-weight pieces such as letters, which is reflected in the higher new rates for letter mail.

Another comment noted that the LC and AO rates to Canada were higher than rates to Mexico for pieces weighing up to 12 ounces, but were lower than rates to Mexico in the heavier weight categories. A similar comment was received with respect to surface printed matter rates for under and over two pounds. This, also, is due to the cost-based terminal dues arrangement with Canada Post, which had the effect of lowering the charges for delivery of heavier weight pieces in comparison with UPU charges at the same time it increased the charges for lighter pieces. The rate differences reflect the different amounts that the Postal Service must pay Mexico and Canada Post for delivery of the mail.

The same commenter asked why air LC and AO rates to Mexico were the same as domestic rates up to 11 ounces, but higher above 11 ounces. The reason for this difference is mainly in the charges for terminal dues. As noted, rates for mail to Mexico are developed separately from domestic rates. However, for administrative convenience, when possible, rates are set at the same level as domestic rates. With respect to heavier pieces, Mexico charges UPU terminal dues rates which proportionately increase the cost of heavier weight pieces. This is reflected in the higher rates for heavier pieces.

One commenter asked why there were separate rates stated for surface and air post and postal cards to Mexico and Canada even though the surface and air rates to each country were identical. The commenter stated that the surface and air rates for letters to each country were the same, but only the rates for surface letters were printed. This commenter also asked whether cards must be specially marked to receive air service. Under the rate categories for international mail in general there are separate rates for air and surface mail. With respect to Canada and Mexico, as noted above, the Postal Service has arrangements which provide that all letter mail, including post and postal cards, receive air service. Thus, cards need not be specially marked to receive air service and the rate for post and postal cards to each country is the same for both the air and surface categories. The letter rates are treated the same way, but instead of listing all of the rates twice, the listing for air letters simply referred to the rate schedule for surface rates. Put another way, it would also have been appropriate to list only the surface rate for post and postal cards and refer to that rate in the air rate schedule, the same as was done with letters, and that has been done in the accompanying rate schedules to avoid confusion.

Another commenter asked why the fee for money orders to Canada was higher than the domestic money order fee even though the Canadian service uses domestic money order forms and the exchange of money orders with most other countries follows a different procedure. The proposed fee for Canadian money orders was based on Canada Post's charges to the Postal Service for processing money orders. However, the Postal Service has determined that charging the higher rate is administratively impractical at this time. Accordingly, the Postal Service has adjusted the fee for money orders to Canada in the schedule of fees accompanying this Notice. The fee will be the same as the domestic rate.

Another comment concerned why there was a separate air parcel rate to Canada, but not to Mexico, when there was an air AO schedule to both countries. The reason is that the rates for different groups of countries are based on the costs of that mail, including terminal dues and transportation costs. Mexico is included in the rate group that includes the Caribbean nations and its rates reflect the costs of that group. The rates to Canada reflect its unique costs, including the different terminal dues arrangement.

II. Publishers' Periodicals

The Postal Service received comments from a trade association for publishers and several publishers who were members of the trade association that criticized the proposed increases in the rates for publishers' periodicals as excessive. These commenters also argued that the Postal Service had allowed insufficient time for publishers to adjust to increased rates. The commenters noted that subscriptions and sometimes advertising space are paid for in advance and that it takes some time to adjust prices to take into account increased postage costs. It was suggested that the rate increases for publishers' periodicals be restrained so that they would not exceed the 18 percent increase for domestic second-class mail, and, alternatively, that the rate increases for publishers' periodicals be postponed. It was also suggested that letter rates be increased more so that publishers' periodicals rates could be lowered. Finally, some of the commenters stated that the rate increases were so great that they would have to seek alternative ways of getting their publications delivered.

With respect to the comments that the rate increase for publishers' periodicals is excessive, the Postal Service is generally under an obligation to be self supporting. 39 U.S.C. 3621. The Postal Service is also guided by certain policies of the Postal Reorganization Act. These policies are, (1) "The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of the service to the people," 39 U.S.C. 101(a) (last sentence); (2) "Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis," 39 U.S.C. 101(d); and (3) "[I]n establishing classifications, rates, and fees under this title, the Postal Service shall not, except as specifically authorized in this title, make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user," U.S.C. 403(c).

In addition, international postage rates are subject to the provisions of the Universal Postal Convention of the Universal Postal Union. Under the current Convention, publishers' periodicals are part of surface AO mail. International Mail Manual 141.2(b), incorporated by reference, 39 CFR 20.1. Article 19(1) of the Convention establishes, in pertinent part, the minimum and maximum rates that can be charged for surface AO mail, including regular printed matter and small packets. The rates for publishers' periodicals fall within these limits. In addition, Article 19(6) provides,

> Each postal administration may allow, for newspapers and periodicals published in its country, a reduction of not more than 50 percent of the tariff for printed papers, while reserving the right to restrict this reduction to newspapers and periodicals which fulfil the conditions required by internal regulations for transmission at the tariff for newspapers. This reduction shall not extend to commercial printed papers such as

catalogues, prospectuses, price lists, etc., no matter how regularly they are issued; the same shall apply to advertisements printed on sheets annexed to newspapers and periodicals.

Thus, the rate for publishers' periodicals cannot be lower than 50 perent of the rate for regular printed matter surface AO mail.

One of the criteria that the Postal Service employs in establishing fair and equitable rates is that, as a general rule, no kind of category of mail should have rates that produce revenues lower than its costs, unless Congress has authorized the lower rate and appropriated the funds to make up the Postal Service's losses. This is because, in general, charging rates that do not produce revenues at least equal to costs results in one group of mailers paying for the cost of delivery of another group's mail. Such cross-subsidization is harmful to mailers because it results in some mailers paying higher rates than they otherwise would, and it is harmful to the Postal Service because the artificially high prices may cause it to lose mail volume and its attendant contributions to overhead.[1] This loss of postal revenues also hurts the mailers who continue to use the Postal Service, because they will have to pay higher rates to make up the lost contribution to overhead that would have been paid by the mailers driven away by higher prices.[2]

The Postal Service developed its surface AO rate proposals in reference to its costs. Historically, the Postal Service has not distinguished between inbound (originating in a foreign country for delivery in the United States) and outbound (originating in the United States for delivery in a foreign country) costs for international mail in setting international rates. In developing the costs for the rates proposed on March 3, the Postal Service quantified separate costs for outbound mail. The Postal Service's initial analysis of the relationship between the costs for outbound surface AO mail and the revenues it would produce showed that in the FY 1989, costs would exceed revenues by over $24 million if the rates remained unchanged. This revenue deficit apparently can be traced in part to general increases in the Postal Service's costs of doing business, but more importantly, to a 45 percent increase in terminal dues rates that became effective in 1986—after current rates were implemented in 1985. The proposed rates include the maximum 50 percent reduction from regular printed matter rates for most weight cells for both publishers' periodicals and books and sheet music (*see* Convention article 19(7)), and were designed so as not to produce any contribution to overhead in an effort to minimize the average rate increases for surface AO mail. The Postal Service believes that any greater increases would unduly burden mailers of surface AO mail without providing a clear benefit for the Postal Service or significantly relieving the overhead cost burden being borne by other mailers. The surface AO rates that were developed in achieving that 100 percent cost coverage are the rates the Postal Service proposed in the Federal Register on March 3.

After careful consideration of the policies of the Postal Reorganization Act, the Postal Service has decided to adopt the rates for surface AO mail, incuding publishers' periodicals, that were proposed. Lesser increases in rates for surface AO mail are not warranted. Although the percentage increases are substantial, they are nonetheless necessary if the surface AO category is to make progress toward paying its own way. While the increases might not completely eliminate the cross-subsidy from other international mail, (a reexamination of the cost data tentatively suggests that the costs for surface AO mail might have been understated), they will at least reduce the burden on the other mail.

Other alternatives have been considered, and found not to be appropriate. Limiting rate increases to the same amount as the increases for domestic second-class would reduce the impact of the increases publishers now, but would mean that they would have to receive even larger increases later if they are to pay their own way. Similarly, increasing air letter rates more than proposed in order to lower surface AO rates without decreasing total revenues would not be economically sound. The proposed air letter rates are estimated to produce a cost coverage of 221 percent, the highest cost coverage of any type of mail, domestic or international. Any additional increase would be difficult to justify under any circumstances, but in particular higher rates cannot be justified to maintain larger subsidies for surface AO mail.

Equally important, it is far from clear that increasing the rates for air letters further would in fact produce more revenues. There is already active competition with the Postal Service for the carriage of air letters. Larger increases in air letter rates would appear more likely to produce additional revenues for the Postal Service's competitors, because the higher rates would be expected to cause more mailers to use private services. The loss of the contributions to overhead that this mail would make would only result in higher rates for all other mailers in the future.

Finally, for those weight categories which have the greatest volumes, publishers' periodicals will generally receive the maximum discount allowed by the UPU Convention.

On the other hand, additional rate increases are not warranted at this time. The users of the publishers' periodicals rates say that the proposed increases will be difficult for them to handle and that they might have to seek alternative means of having their periodicals delivered in foreign countries. The Postal Service is mindful of the policy of establishing rates that will not impair the value of the service to the people, and has concluded that any greater increases at this time could impair the value of surface AO mail to its users.

With respect to the comment that the Postal Service allowed insufficient time for publishers to adjust to rate increases, the short time allowed was, in considerable part, due to the time required to develop better costs on which to base rates. The improved cost data did not become available until shortly before the rates were proposed. Moreover, the trade association commenter knew that an increase in international rates was to be expected through its participation as a party to the domestic rate case before the independent Postal Rate Commission. The Postal Service's filing before the Commission in May 1987 indicated that rate increases were contemplated for international mail. Furthermore, historically the Postal Service has increased international rates at the same time it increased domestic rates and fees. Accordingly, while not all the commenters might have had personal knowledge that an increase in international rates was on the horizon,

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[1] While the Postal Service is generally protected from competition in the carriage of letter mail in its domestic service by the Private Express Statutes, 18 U.S.C. 1693–1699, 1724; 39 U.S.C. 601–606, because of a suspension of the requirement that postage be paid on international letters, the Postal Service is no longer protected from competition in its international service. *See* 39 CFR 320.8. Competitors for international letter mail are active and have attracted an undetermined amount of the Postal Service's international letter mail business.

[2] Some mailers will continue to use the Postal Service because they have no choice. Those who use competitive services will do so in many instances because they are offered discounts that can vary among customers. The requirement that the Postal Service not discriminate unreasonably and not grant undue or unreasonable preferences generally prevents it from meeting the prices charged by these competitors' practices.

and while specific rate information was not available until the Postal Service's request for comments of March 3,1988, it cannot be said that there was no notice to any of the commenters that rates would be increased in the present time frame.

The Postal Service has decided not to delay the rate increases for international mail as a whole, or for publishers' periodicals alone. The Postal Service received no comments on most of the rate changes it proposed. The comments, other than those of mailers of publishers' periodicals, were mainly in the nature of seeking explanations of particular rate relationships. On the whole, while it cannot be said that the comments supported increasing rates, the commenters at least expressed no great dissatisfaction with the vast majority of the proposed increases. Thus, there is no reason for postponing most of the international rate changes. Fairness and equity suggest that if most mailers are going to have to pay increased postage rates as a result of a general increase, then all those scheduled increases should occur at the same time. Moreover, the large gap between present permanent rate levels for publishers' periodicals and the rate levels needed to meet the costs of the service provided would represent a significant drain on Postal Service resources. If the final rates are implemented promptly, publishers will continue to benefit from rates that do not exceed costs. Finally, although the comments suggest that the magnitude of the increases might cause some difficulties for some publishers, the Postal Service is convinced that the increases are warranted. On balance, the reasons for implementing the rates promptly appear to outweigh the reasons for postponing the increases.

III. Other Comments Concerning Rates

One commenter noted that there was no longer a separate air LC rate from American Samoa to Western Samoa, and from Guam to the Philippines, although a separate rate was maintained for air AO mail. The proposed air LC rates consolidated into one schedule what was formerly two schedules. Air LC is the service used most often by individual mailers, and this change simplified the rates for air LC to make it easier for individuals to determine what rate to pay. With the elimination of the schedule in which the former special rate was included, there was no longer any reason to have these special rates. The air AO schedules, however, were not consolidated, because AO pieces tend to be heavier and air transportation costs are more significant on a piece basis. Since multiple schedules were maintained, the rates from American Samoa to Western Samoa and Guam to the Philippines were included in the most appropriate rate schedule.

One commenter noted that the proposed air AO rates to Estonia and similar destinations do not provide for any savings for pieces weighing under half an ounce comparable to the savings at the half-ounce air LC rate, even though the rates were the same at the one-ounce interval. The reason for this is that while both schedules are cost based, they apply to different kinds of mail. For the LC mail, which has a low average weight per piece, the half-ounce increments were considered to be more appropriate, and for the AO mail, which has a higher average weight per piece, one-ounce increments were considered more appropriate.

IV. Procedural Comments

One commenter suggested that the Postal Service submit its proposed international rates and fees to the Postal Rate Commission for consideration. This would not be appropriate because Congress has not given the Rate Commission authority to review or recommend international rates.

One commenter objected that the original notice contained inadequate information to formulate appropriate comments. The notice itself provided a means of obtaining additional information, of which this commenter took full advantage, including obtaining detailed cost data for surface AO mail and having interviews with officials of the Postal Service.

This commenter also objected to the Postal Service not releasing details about its terminal dues arrangements with Canada. This information is commercially sensitive information that under good business practice would not be publicly released. *See* 39 U.S.C. 410(c)(2).

This commenter also urged the Postal Service to hold a hearing on its proposed rate increases, with at least 10 months to pass between commencement of hearings and implementation of new rates. The Postal Reorganization Act does not provide for such a hearing to be held. Moreover, as was noted in the section concerning publishers' periodicals, the Postal Service has decided not to delay implementation of these rate increases.

This commenter was also critical of the UPU and the UPU terminal dues arrangements, and suggested that the Postal Service withdraw from the UPU. We believe this proposal is not a reasonable alternative to implementation of the proposed rates.

V. Conclusion

Accordingly, the Postal Service hereby adopts the international rates and fees set forth in the schedules below. These rates and fees shall take effect at 12:01 a.m. on April 17, 1988. The interim rates and fees which took effect on April 3, 1988, are canceled effective at the same time the rates below become effective.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

I. International Postal Rates and Fees

A. New Rates

1. Letters and letter packages.

Weight steps, not over		Canada [1]	Mexico
Lbs.	Ozs.		
0	1	$0.30	$0.25
0	2	0.52	0.45
0	3	0.74	0.65
0	4	0.96	0.85
0	5	1.18	1.05
0	6	1.40	1.25
0	7	1.62	1.45
0	8	1.84	1.65
0	9	2.06	1.85
0	10	2.28	2.05
0	11	2.50	2.25
0	12	2.72	2.45
1	0	3.08	3.25
1	8	3.70	4.05
2	0	4.32	4.85
2	8	4.94	5.65
3	0	5.56	6.45
3	8	6.18	7.25
4	0	6.80	8.05

[1] Registered letters to Canada may weigh up to 66 pounds. For these items, the rate for each additional pound or fraction over 4 pounds is $1.24.

2. Letters and letter packages (Surface).

Weight steps, not over		All countries (other than Canada/ Mexico)
Lbs.	Ozs.	
0	1	$0.40
0	2	0.63
0	3	0.86
0	4	1.09
0	5	1.32
0	6	1.55
0	7	1.78
0	8	2.01
1	0	3.80
1	8	5.20
2	0	6.60
2	8	7.60
3	0	8.60
3	8	9.60
4	0	10.60

3. Letters and Letter Packages (Air).

a. Canada and Mexico: refer to rates listed under A.1. Mail paid at this rate receives First-Class service in the United States and air service in Canada and Mexico.

b. All other Countries: 45 cents per half ounce up to and including 2 ounces; 42 cents each additional half ounce up to and including 32 ounces; 42 cents per additional ounce over 32 ounces.

4. Post and Postal Cards.

a. Surface.

(1) Canada: 21 cents each.

(2) Mexico: 15 cents each.

(3) All other countries: 28 cents each.

b. Air.

(1) Canada: 21 cents each.

(2) Mexico: 15 cents each.

(3) All countries (except Canada and Mexico): 36 cents each.

5. Aerogrammes: 39 cents each.

6. Other Articles (AO).

a. Surface.

(1) Regular Printed Matter.

Weight steps	Canada	Mexico	All other countries
Not over:			
1 oz	$0.30	$0.25	$0.40
2 oz	0.52	0.45	0.60
3 oz	0.74	0.65	0.80
4 oz	0.96	0.85	1.00
6 oz	1.21	1.05	1.28
8 oz	1.46	1.25	1.56
10 oz	1.71	1.45	1.84
12 oz	1.96	1.65	2.12
14 oz	2.21	1.85	2.40
16 oz	2.39	2.05	2.68
18 oz	2.57	2.25	2.92
20 oz	2.75	2.45	3.16
22 oz	2.93	2.65	3.40
24 oz	3.11	2.85	3.64
26 oz	3.29	3.05	3.88
28 oz	3.47	3.25	4.12
30 oz	3.65	3.45	4.36
32 oz	3.83	3.65	4.60
3 lbs	5.03	5.15	6.10
4 lbs	6.23	6.65	7.60
Each additional 1 lb	1.20	1.50	1.50

Weight steps	Canada	Mexico	All other countries
Direct sacks to one addressee (M-Bag): Minimum 15 lbs, maximum 66 lbs, per pound, or fraction	.96	1.20	1.20

(2) Publishers Periodicals.

Weight steps	All countries
Not over:	
1 oz	$0.20
2 oz	0.30
3 oz	0.40
4 oz	0.50
6 oz	0.64
8 oz	0.78
10 oz	0.92
12 oz	1.06
14 oz	1.20
16 oz	1.34
18 oz	1.46
20 oz	1.58
22 oz	1.70
24 oz	1.82
26 oz	1.94
28 oz	2.06
30 oz	2.18
32 oz	2.30
3 lbs	3.20
4 lbs	4.10
Each additional 1 lb	.90
Director sacks to one addressee (M-Bag): Minimum 15 lbs, maximum 66 lbs, per pound or fraction	.72

(3) Books and Sheet Music.

Weight steps	All countries
Not over:	
1 lbs	$1.34
2 lbs	2.30
3 lbs	3.20
4 lbs	4.10
5 lbs	5.00
6 lbs	5.90
7 lbs	6.80
8 lbs	7.70
9 lbs	8.60
10 lbs	9.50
11 lbs	10.40
Each additional 1 lb	.90
Direct sacks to one addressee (M-Bag): minimum 15 lbs, maximum 66 lbs, per pound or fraction	.72

(4) Small Packets.

Weight steps	Canada	Mexico	All other countries
Not over:			
1 oz	$0.30	$0.25	$0.40
2 oz	0.52	0.45	0.60
3 oz	0.74	0.65	0.80
4 oz	0.96	0.85	1.00
6 oz	1.21	1.05	1.28
8 oz	1.46	1.25	1.56
10 oz	1.71	1.45	1.84
12 oz	1.96	1.65	2.12
14 oz	2.21	1.85	2.40
16 oz	2.39	2.05	2.68
18 oz	2.57	2.25	2.92
20 oz	2.75	2.45	3.16
22 oz	2.93	2.65	3.40
24 oz	3.11	2.85	3.64
26 oz	3.29	3.05	3.88
28 oz	3.47	3.25	4.12
30 oz	3.65	3.45	4.36
32 oz	3.83	3.65	4.60
3 pounds			6.10
4 pounds			7.60

b. Air (Encompasses all Printed Matter, Matter for the Blind and Small Packets).

Weight steps	Canada and Mexico	Columbia Venezuela, Central America, Caribbean Islands, Bahamas, Bermuda, & St. Pierre & Miquelon (Also, from American Samoa to Western Samoa, & from Guam to the Philippines	South America (except Colombia & Venezuela), Europe (except Estonia, Latvia, Lithuania, & U.S.S.R.), & North Africa	Estonia, Latvia, Lithuania, U.S.S.R., Asia, Pacific Ocean Islands, Africa (other than North Africa) the Indian Ocean Islands & the Middle East
Not over:				
1 oz	(1)	$0.69	$0.83	$0.90
2 oz	(1)	1.06	1.32	1.54
3 oz	(1)	1.43	1.81	2.18
4 oz	(1)	1.80	2.30	2.82
6 oz	(1)	2.17	2.94	3.73
8 oz	(1)	2.54	3.58	4.64
10 oz	(1)	2.91	4.22	5.55
12 oz	(1)	3.28	4.86	6.46
14 oz	(1)	3.65	5.50	7.37

Weight steps	Canada and Mexico	Columbia Venezuela, Central America, Caribbean Islands, Bahamas, Bermuda, & St. Pierre & Miquelon (Also, from American Samoa to Western Samoa, & from Guam to the Philippines	South America (except Colombia & Venezuela), Europe (except Estonia, Latvia, Lithuania, & U.S.S.R.), & North Africa	Estonia, Latvia, Lithuania, U.S.S.R., Asia, Pacific Ocean Islands, Africa (other than North Africa) the Indian Ocean Islands & the Middle East
16 oz	(1)	4.02	6.14	8.28
18 oz	(1)	4.39	6.78	9.19
20 oz	(1)	4.76	7.42	10.10
22 oz	(1)	5.13	8.06	11.01
24 oz	(1)	5.50	8.70	11.92
26 oz	(1)	5.87	9.34	12.83
28 oz	(1)	6.24	9.98	13.74
30 oz	(1)	6.61	10.62	14.65
32 oz	(1)	6.98	11.26	15.56
2.5 pounds	(1)	8.38	13.76	19.11
3.0 pounds	(1)	9.78	16.26	22.66
3.5 pounds	(1)	11.18	18.76	26.21
4.0 pounds	(1)	12.58	21.26	29.76
Each additional 1/2 pound	(1)	1.40	2.50	3.55
Direct sack to one addressee (M-Bag), minimum 15 lbs., maximum 66 lbs., per pound or fraction	(1)	2.24	4.00	5.68

[1] See section C.

c. Air AO—Canada/Mexico (Encompasses all Printed Matter, Matter for the Blind and Small Packets).

Weight steps, not over	Canada	Mexico
1 ounces	$0.30	$0.25
2 ounces	0.52	0.45
3 ounces	0.74	0.65
4 ounces	0.96	0.85
5 ounces	1.18	1.05
6 ounces	1.40	1.25
7 ounces	1.62	1.45
8 ounces	1.84	1.65
9 ounces	2.06	1.85
10 ounces	2.28	2.05
11 ounces	2.50	2.25
12 ounces	2.72	2.45
16 ounces	3.08	3.25
24 ounces	3.70	4.05
32 ounces	4.32	4.85
2.5 pounds	4.94	5.65
3.0 pounds	5.56	6.45
3.5 pounds	6.18	7.25
4.0 pounds	6.80	8.05
Each additional ½ pound over 4 pounds	.62	.80
Direct sack to one addressee (M-Bag): Minimum 15 pounds, maximum 66 pounds, or fraction	.99	1.28

7. Parcel Post.

a. Surface

(1) Canada: $3.95 for over 1 pound and up to 2 pounds, and $1.20 for each additional pound or fraction.

(2) Mexico, Central America, the Caribbean Islands, Bahamas, Bermuda, St. Pierre and Miquelon: $4.40 for the first 2 pounds and $1.40 for each additional pound or fraction.

(3) All other countries: $4.60 for the first 2 pounds and $1.50 for each additional pound or fraction.

b. Air.

Air Parcel Post Rates.

(1) Canada.

Weight steps, not over (pounds)	Rates
1 to 2	$4.32
3	5.56
4	6.80
5	8.04
6	9.28
7	10.52
8	11.76
9	13.00
10	14.24
11	15.48
12	16.72
13	17.96
14	19.20
15	20.44
16	21.68
17	22.92
18	24.16
19	25.40
20	26.64
21	27.88
22	29.12
23	30.36
24	31.60
25	32.84
26	34.08
27	35.32
28	36.56
29	37.80
30	39.04
31	40.28
32	41.52
33	42.76
34	44.00
35	45.24
36	46.48
37	47.72
38	48.96
39	50.20
40	51.44
41	52.68
42	53.92
43	55.16
44	56.40
45	57.64
46	58.88
47	60.12
48	61.36
49	62.60
50	63.84
51	65.08
52	66.32
53	67.56
54	68.80
55	70.04
56	71.28
57	72.52
58	73.76
59	75.00
60	76.24
61	77.48
62	78.72
63	79.96
64	81.20
65	82.44
66	83.68

b. Air.

2. All other countries.

Weight steps	Country groups				
	A	B	C	D	E
First 1 pound	$5.50	$7.15	$8.70	$10.30	$11.95
Each additional pound or fraction up to 5 pounds	2.80	4.00	4.80	5.80	6.80
Each additional pound or fraction over 5 pounds	2.00	3.00	4.00	5.00	6.00

All Parcel Post Rate Groups: See list.

AIR PARCEL POST RATE GROUPS

Country	Rate Group	Maximum weight limits for air parcel post
Afghanistan	D	44
Albania	C	44
Algeria	D	44
Andorra	B	44
Angola	E	22
Anguilla	A	22
Antigua and Barbuda	A	22
Argentina	D	44
Aruba	A	44
Ascension	(1)	
Australia	D	44
Austria	B	44
Azores	C	22
Bahamas	A	22
Bahrain	D	22
Bangladesh	E	22
Barbados	B	44
Belgium	D	44
Belize	A	44
Benin	C	44
Bermuda	A	44
Bhutan	E	22
Bolivia	B	44
Botswana	E	22
Brazil	E	44
British Virgin Islands	A	44
Brunei	D	22
Bulgaria	D	44
Burkina Faso	D	44
Burma	D	22
Burundi	E	44
Cameron	D	44
Canada	(5)	66
Cape Verde	D	22
Cayman Islands	A	44
Central African Republic	E	44
Chad	D	44
Chile	D	22
China (Peoples Republic of)	D	44
Colombia	B	44
Camoros	E	44
Congo	D	44
Corsica	E	44
Costa Rica	A	44
Cote d'Ivoire (Ivory Coast)	D	44
Cuba	(3)	
Cyprus	C	44
Czechoslovakia	C	33
Denmark	C	44
Djibouti	D	44
Dominica	A	22
Dominican Republic	A	44
East Timor	(3)	
Ecuador	C	44
Egypt	D	44
El Salvador	B	44
Equatorial Guinea	D	44
Estonia	E	22
Ethiopia	D	44
Falkland Islands	D	44
Faroe Islands	C	44
Fiji	B	44
Finland	D	44
France (including Monaco)	E	44
French Guiana	C	44

AIR PARCEL POST RATE GROUPS—Continued

Country	Rate Group	Maximum weight limits for air parcel post
French Polynesia	D	44
Gabon	D	44
Gambia	B	22
German Democratic Republic (East Germany).	C	44
Germany, Federal Republic of (West Germany).	C	44
Ghana	D	22
Gibraltar	C	44
Great Britain and Northern Ireland.	C	50
Greece	C	44
Greenland	D	44
Grenada	A	22
Guadeloupe	A	44
Guatemala	A	44
Guinea	B	44
Guinea-Bissau	B	22
Guyana	B	44
Haiti	A	44
Honduras	B	44
Hong Kong	C	44
Hungary	C	44
Iceland	C	44
India	D	44
Indonesia	E	22
Iran	D	44
Iraq	D	44
Ireland (Eire)	C	22
Israel	C	33
Italy (including San Marino)	C	44
Jamaica	A	22
Japan	E	22
Jordan	C	44
Kampuchea	(3)	
Kenya	D	44
Kirabati	B	44
Korea, Democratic People's Republic.	(3)	
Korea, Republic of	C	44
Kuwait	C	44
Lao	E	44
Latvia	E	22
Lebanon	C	11
Lesotho	E	22
Liberia	C	22
Libya	D	44
Lithuania	E	22
Luxembourg	B	44
Macao	C	22
Madagascar	E	44
Madeira Islands	B	22
Malawi	D	22
Malaysia	D	22
Maldives	D	22
Mali	C	44
Malta	C	22
Martinique	A	44
Mauritania	D	44
Mauritius	E	22
Mexico	A	44
Mongolia	(3)	
Montserrat	A	44
Morocco	C	44

AIR PARCEL POST RATE GROUPS—Continued

Country	Rate Group	Maximum weight limits for air parcel post
Mozambique	E	22
Nauru	C	44
Nepal	D	44
Netherlands	C	44
Netherlands Antilles	A	44
New Caledonia	D	44
New Zealand	D	22
Nicaragua	B	44
Niger	D	44
Nigeria	C	22
Norway	D	44
Oman	D	22
Pakistan	D	22
Panama	A	44
Papua New Guinea	D	44
Paraguay	D	44
Peru	B	44
Philippines	D	44
Pitcairn Islands	B	22
Poland	B	44
Portugal	C	22
Qatar	C	44
Reunion	E	44
Romania	C	44
Rwanda	D	44
Saint Christoper and Nevis	A	44
Saint Helena	C	44
Saint Lucia	A	44
Saint Pierre and Miquelon	A	44
Saint Vincent and the Grenadines.	A	22
Sao Tome and Principe	D	44
Saudia Arabia	D	22
Senegal	D	44
Seychelles	D	22
Sierre Leone	D	44
Singapore	D	22
Solomon Islands	C	44
Somalia	D	44
South Africa (including South West Africa and Namibia).	D	22
Spain	C	44
Sri Lanka	D	44
Sudan	D	44
Suriname	B	44
Swaziland	D	44
Sweden	D	44
Switzerland (including Leichtenstein).	B	44
Syria	C	44
Taiwan	C	44
Tanzania	E	22
Thailand	D	44
Togo	D	44
Tonga	B	22
Trinidad and Tobago	B	22
Tristan da Cunha	E	22
Tunisia	C	44
Turkey	C	44
Turks and Caicos Islands	A	22
Tuvalu	B	44
Uganda	D	22
Union of Soviet Socialist Republic.	E	22

AIR PARCEL POST RATE GROUPS—Continued

Country	Rate Group	Maximum weight limits for air parcel post
United Arab Emirates	D	44
Uruguay	B	44
Vanuatu	B	44
Vatican City State	C	44
Venezuela	B	44
Vietnam	(3)	
Wallis and Futuna Islands	D	44
Western Samoa	B	22
Yemen Arab Republic	D	22
Yemen, Peoples Democratic Representative of	E	44
Yugoslavia	C	22
Zaire	E	44
Zambia	E	44
Zimbabwe	E	44

[1] No air service.
[2] Separate rate group.
[3] No parcel post service.

8. Express Mail International Service for Countries by Rate Group, See List.

a. Custom Designed Service [1] [2] [3]

(1) Group 1:

Pounds (up to and including)	Rates
1-2	$31.20
3	33.40
4	35.60
5	37.80
6	40.00
7	42.20
8	44.40
9	46.60
10	48.80
11	51.00
12	53.20
13	55.40
14	57.60
15	59.80
16	62.00
17	64.20
18	66.40
19	68.60
20	70.80
21	73.00
22	75.20
23	77.40
24	79.60
25	81.80
26	84.00
27	86.20
28	88.40
29	90.60
30	92.80
31	95.00
32	97.20
33	99.40
34	101.60
35	103.80
36	106.00
37	108.20
38	110.40
39	112.60
40	114.80
41	117.00
42	119.20
43	121.40
44	123.60
45	125.80
46	128.00
47	130.20
48	132.40
49	134.60
50	136.80
51	139.00
52	141.20
53	143.40
54	145.60
55	147.80
56	150.00
57	152.20
58	154.40
59	156.60
60	158.80
61	161.00
62	163.20
63	165.40
64	167.60
65	169.80
66	172.00

[1] Rates for pieces 1 pound and under published in November 12, 1987, FEDERAL REGISTER Notice.
[2] Rates in these tables are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.
[3] Pickup is available under a Service Agreement for an added charge of $4.00 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

(2) Group 2:

Pounds (up to and including)	Rates
1-2	$33.50
3	38.00
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50
11	74.00
12	78.50
13	83.00
14	87.50
15	92.00
16	96.50
17	101.00
18	105.50
19	110.00
20	114.50
21	119.00
22	123.50
23	128.00
24	132.50
25	137.00
26	141.50
27	146.00
28	150.50
29	155.00
30	159.50
31	164.00
32	168.50
33	173.00
34	177.50
35	182.00
36	186.50
37	191.00
38	195.50
39	200.00
40	204.50
41	209.00
42	213.50
43	218.00
44	222.50

(3) Group 3:

Pounds (up to and including)	Rates
1-2	$34.70
3	40.40
4	46.10
5	51.80
6	57.50
7	63.20
8	68.90
9	74.60
10	80.30
11	86.00
12	91.70
13	97.40
14	103.10
15	108.80
16	114.50
17	120.20
18	125.90
19	131.60
20	137.30
21	143.00
22	148.70
23	154.40
24	160.10
25	165.80
26	171.50
27	177.20
28	182.90
29	188.60
30	194.30
31	200.00
32	205.70
33	211.40
34	217.10
35	222.80
36	228.50
37	234.20
38	239.90
39	245.60
40	251.30
41	257.00
42	262.70
43	268.40
44	274.10

(4) Group 4:

Pounds (up to and including)	Rates
1-2	$36.00
3	43.00
4	50.00
5	57.00
6	64.00
7	71.00
8	78.00
9	85.00
10	92.00
11	99.00
12	106.00
13	113.00
14	120.00
15	127.00
16	134.00
17	141.00
18	148.00
19	155.00
20	162.00
21	169.00
22	176.00
23	183.00
24	190.00
25	197.00
26	204.00
27	211.00
28	218.00
29	225.00
30	232.00
31	239.00
32	246.00
33	253.00

Pounds (up to and including)	Rates
34	260.00
35	267.00
36	274.00
37	281.00
38	288.00
39	295.00
40	302.00
41	309.00
42	316.00
43	323.00
44	330.00
45	337.00
46	344.00
47	351.00
48	358.00
49	365.00
50	372.00

b. On Demand Service [1] [3]

(1) Group 1:

Pounds (up to and including)	Rates
1–2	$23.20
3	25.40
4	27.60
5	29.80
6	32.00
7	34.20
8	36.40
9	38.60
10	40.80
11	43.00
12	45.20
13	47.40
14	49.60
15	51.80
16	54.00
17	56.20
18	58.40
19	60.60
20	62.80
21	65.00
22	67.20
23	69.40
24	71.60
25	73.80
26	76.00
27	78.20
28	80.40
29	82.60
30	84.80
31	87.00
32	89.20
33	91.40
34	93.60
35	95.80
36	98.00
37	100.20
38	102.40
39	104.60
40	106.80
41	109.00
42	111.20
43	113.40
44	115.60
45	117.80
46	120.00
47	122.20
48	124.40
49	126.60
50	128.80
51	131.00
52	133.20
53	135.40
54	137.60
55	139.80
56	142.00
57	144.20
58	146.40
59	148.60
60	150.80
61	153.00
62	155.20
63	157.40
64	159.60
65	161.80
66	164.00

[1] Rates for pieces 1 pound and under published in November 12, 1987, FEDERAL REGISTER Notice.

[2] Pickup is available under a Service Agreement for an added charge of $4.00 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

(2) Group 2:

Pounds (up to and including)	Rates
1–2	$25.50
3	30.00
4	34.50
5	39.00
6	43.50
7	48.00
8	52.50
9	57.00
10	61.50
11	66.00
12	70.50
13	75.00
14	79.50
15	84.00
16	88.50
17	93.00
18	97.50
19	102.00
20	106.50
21	111.00
22	115.50
23	120.00
24	124.50
25	129.00
26	133.50
27	138.00
28	142.50
29	147.00
30	151.50
31	156.00
32	160.50
33	165.00
34	169.50
35	174.00
36	178.50
37	183.00
38	187.50
39	192.00
40	196.50
41	201.00
42	205.50
43	210.00
44	214.50

(3) Group 3:

Pounds (up to and including)	Rates
1–2	$26.70
3	32.40
4	38.10
5	43.80
6	49.50
7	55.20
8	60.90
9	66.60
10	72.30
11	78.00
12	83.70
13	89.40
14	95.10
15	100.80
16	106.50
17	112.20
18	117.90
19	123.60
20	129.30
21	135.00
22	140.70
23	146.40
24	152.10
25	157.80
26	163.50
27	169.20
28	174.90
29	180.60
30	186.30
31	192.00
32	197.70
33	203.40
34	209.10
35	214.80
36	220.50
37	226.20
38	231.90
39	237.60
40	243.30
41	249.00
42	254.70
43	260.40
44	266.10

(4) Group 4:

Pounds (up to and including)	Rates
1–2	$28.00
3	35.00
4	42.00
5	49.00
6	56.00
7	63.00
8	70.00
9	77.00
10	84.00
11	91.00
12	98.00
13	105.00
14	112.00
15	119.00
16	126.00
17	133.00
18	140.00
19	147.00
20	154.00
21	161.00
22	168.00
23	175.00
24	182.00
25	189.00
26	196.00
27	203.00
28	210.00
29	217.00
30	224.00
31	231.00
32	238.00
33	245.00
34	252.00
35	259.00
36	266.00
37	273.00
38	280.00
39	287.00
40	294.00
41	301.00
42	308.00

Pounds (up to and including)	Rates
43	315.00
44	322.00
45	329.00
46	336.00
47	343.00
48	350.00
49	357.00
50	364.00

INTERNATIONAL EXPRESS MAIL—RATE GROUPS AND MAXIMUM WEIGHT LIMITS

Country	Rate group	Maximum weight (lbs.)
Argentina	3	44
Australia	4	44
Austria	2	44
Bahamas	2	44
Bahrain	3	44
Bangladesh	4	44
Barbados	2	44
Belgium	3	44
Bermuda	1	44
Brazil	4	50
Burkina Faso	3	44
Canada	1	66
Cayman Islands	2	44
Chad	3	44
Chile	3	33
China, Peoples Republic of	4	33
Colombia	2	44
Cote d'Ivoire (Ivory Coast)	3	44
Cyprus	3	44
Denmark (including Faroe Islands)	3	44
Djibouti	4	44
Egypt	3	44
Finland	3	44
France (including Corsica and Monaco)	3	44
Germany, Federal Republic of	2	44
Great Britain/Northern Ireland	2	44
Greece	3	44
Guinea	3	44
Guyana	2	44
Hong Kong	3	44
Hungary	2	44
Iceland	3	44
India	4	44
Indonesia	4	22
Ireland	2	44
Israel	3	33
Italy	3	44
Japan	4	44
Jordan	3	44
Korea, Republic of	3	44
Kuwait	3	44
Luxembourg	2	44
Macao	3	44
Malaysia	4	33
Mali	3	44
Mexico	1	44
Netherlands	3	44
Netherlands Antilles	2	44
New Zealand	4	44
Niger	3	44
Nigeria	3	44
Norway	3	44
Oman	3	44
Pakistan	3	22
Panama	2	44
Portugal (including Madeira Islands and Azores)	2	44
Qatar	3	44
Rwanda	4	44
Saudi Arabia	3	22
Senegal	3	44
Singapore	4	44
South Africa	4	44
Spain	2	44
Sweden	3	44
Switzerland (including Liechtenstein	3	33
Taiwan	3	33
Tanzania	4	22
Thailand	4	44
Tunisia	3	44
Turkey	3	44
United Arab Emirates	3	44
Uruguay	3	44
Venezuela	2	44

B. New Special Mail Services Fees.

1. Nonstandard Surcharge:

a. Letters (weighing one ounce or less): 10 cents.

b. Regular Printed Matter (weighing one ounce or less): 10 cents.

2. Customs Clearance and Delivery Fee: $3.25

3. Inquiry Fee: $5.00

4. Return receipt requested at time of mailing: 90 cents.

5. Registered Mail

Limit of indemnity and Fee

1. Canada:

$000.00 to $100 ..... $4.50
$100.01 to $500 ..... 4.85
$500.01 to $1,000 ..... 5.25

2. All other countries:

$24.60 ..... $4.40

6. Insured Mail:

Limit of Indemnity [1]	Fees	
Not over	Canada	All other countries
50	$0.70	$1.50
100	1.50	1.90
150	1.90	3.15
200	2.20	3.15
300	3.15	4.30
400	4.30	5.00
500	5.00	5.70
600		6.40
700		7.10
800		7.80
900		8.50
1,000		9.20
1,100		9.90
1,200		10.60

[1] Limits vary by country.

7. Money Orders:

a. Orders Issued on Domestic Form:

Amount of Money Order and Fee

$0.01 to $35 ..... $.75
$35.01 to $700 ..... 1.00

Note: Service is not available to all countries. See IMM for service availability. When service is available each order is limited to $700, except $200 to Great Britain and $400 to Norway.

b. Orders Issued on International Form (including Japan): $3.00 per money order.

c. Charge for a photostat of a paid money order issued on a domestic form or pursuant to an international authorization form: $2.00.

8. Special Handling:

Weight and Fee

Not More than 10 pounds $1.55
More than 10 pounds 2.25

9. Special Delivery:

Class of mail	Not over 2 pounds	Over 2 pounds
Letters, letter packages, post and postal cards	$5.35	$5.75
Other articles	5.65	6.50

10. Restricted Delivery: $2.00.

11. Certificates of Mailing:

	Fee
Individual listed pieces:	
Original or Copy of original Certificate of mailing or receipt for registered or insured mail (per piece) (Form 3817)	$0.45
Firm mailing books (per piece) (Form 3877)	0.15
Identical pieces:	
Up to 1,000 pieces	2.00
For each additional 1,000 pieces, or fraction	0.25
Duplicate copy	0.45

12. Return charges for returned publishers' periodicals mailed to Canada by publishers or registered news agents (781.5a, International Mail Manual).

Weight not over	Charge
1 oz	$.25
2	.45
3	.65
4	.85
6	1.00
8	1.10
10	1.20
12	1.30
14	1.40
16	1.50

For weights over 1 pound, use the domestic 8th zone fourth-class rate.

13. International Reply Coupons:

Selling price for U.S. issued coupons: 95 cents.

[FR Doc. 88-8362 Filed 4-14-88; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

April 11, 1988.

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:

Brazil Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-3232)
British Gas PLC
Final Installment American Depositary Receipts (File No. 7-3233)
WPL Holdings, Inc.
Common Stock, $.01 Par Value (File No. 7-3234)

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 May 2, 1988, 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, 450 Fifth Street NW., 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.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-8292 Filed 4-14-88; 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.

April 11, 1988.

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 stock:

Kansas City Southern Industries, Inc.
Common Stock, No Par Value (File No. 7-3230)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 2, 1988 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, 450 Fifth Street, NW., 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.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-8293 Filed 4-14-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IV Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IV Advisory Council, located in the geographical area of Columbia, South Carolina, will hold a public meeting at 9:00 a.m. on Tuesday, April 26, 1988 at the Embassy Suites, I-20 Greystone Boulevard, Columbia, South Carolina, 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 John C. Patrick, Jr., District Director, U.S. Small Business Administration, P.O. Box 2786, Columbia, South Carolina (803) 765-5339.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 11, 1988.

[FR Doc. 88-8252 Filed 4-14-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 88-023]

Vessels Under the Optional Simplified Measurement Method

AGENCY: Coast Guard, DOT.

ACTION: Notice that Coast Guard is changing the application procedure for measurement of vessels under the Optional Simplified Measurement method.

SUMMARY: The Coast Guard is publishing notice that, on and after May 2, 1988, the applications required under 46 CFR 69.05 for simplified measurement will be accepted and processed, as part of the vessel documentation application process, at the vessel's intended port of documentation.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Ray L. Bunnell, Tonnage Survey Branch, Merchant Vessel Inspection and Documentation Division, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-2992. Normal office hours are between 7:00 a.m. and 3:30 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Tonnages calculated under the Optional Simplified Measurement method are employed as a basis to document a vessel as a vessel of the United States. Simplified measurement presently applies to domestically-operated commercial vessels less than 79 feet in length overall and to barges of any length, and to pleasure vessels of any length, whether or not engaged in international voyages. An applicant who intends to document a vessel with tonnages calculated under the simplified measurement system currently is required to forward the application to a central processing unit located at Coast Guard Headquarters. During the past year the Coast Guard has programmed the Marine Safety Information System (MSIS) to accept vessel documentation and simplified measurement data processing at each vessel

documentation office. This capability will eliminate the current requirement for separate processing of simplified measurement applications at Coast Guard headquarters.

As of May 2, 1988, applications for simplified measurement will be accepted as part of the vessel documentation application process at the vessel's intended port of documentation. Applications for simplified measurement that are received at headquarters before May 2, 1988, will be processed. Applications received on or after that date will be forwarded to the vessel documentation office designated by the applicant.

April 11, 1988.

P.C. Lauridsen,

Captain, U.S. Coast Guard Acting Chief, Office of Maine Safety Security and Environmental Protection.

[FR Doc. 88-8200 Filed 4-14-88; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

[Docket No. IP 87-13; Notice 2]

General Motors Corp; Grant of Petition for Determination or Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.102, Federal Motor Vehicle Safety Standard No. 102, "Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect." The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on January 14, 1988, and an opportunity afforded for comment (53 FR 987).

Section S3.2 of Standard No. 102 requires that:

> Identification of shift lever positions of automatic transmissions and of the shift lever pattern of manual transmissions, except three forward speed manual transmissions having the standard "H" pattern, shall be permanently displayed in view of the driver.

Section 571.3 of 49 CFR defines a "driver" as the occupant of a motor vehicle seated immediately behind the steering control system." In recent interpretations of Standard No. 102, NHTSA has stated that section S3.2's requirement that the identification of shift lever positions of automatic transmissions be permanently displayed in view of the driver requires a display whenever a driver is in the driver's seating position, even if the ignition is not turned on. General Motors has manufactured approximately 113,000 passenger cars that do not comply with this interpretation of Standard No. 102. The vehicles are equipped with displays for electronic transmission shift lever position which are only visible to the driver when the ignition switch is turned to the positions of "on" on "off." According to NHTSA's interpretation, this does not meet the requirement for permanently-displayed shift lever positions. The following table shows the number of noncompliant vehicles sold between 1985 and 1987 by model type.

Model type	No. of vehicles sold		
	1985	1986	[1]1987
Buick, Electra and LeSabre	.....	9,637	21,574
Olds Regency and Delta 88	7,679	29,965	36,624
Olds Toronado	.....	3,164	7,360

[1] 1987 figures are General Motors projected sales.

General Motors vehicles equipped with electronic transmission shift lever position displays and built on or after November 15, 1987, have an additional message on the instrument panel which states: "Vehicle is in Park before [P]RNDL is Illuminated."

In General Motors' view, this eliminates any future noncompliance. General Motors believes the noncompliance is inconsequential for the following reasons:

> First and, perhaps, foremost, we do not perceive a need for displaying the PRNDL based exclusively on occupancy of the driver's seating position. The need arises when someone is driving the vehicle and, by virtue of driving the vehicles, has occasion to shift the transmission. The affected GM vehicles are all equipped with backdrive. Therefore, it is not possible to shift the transmission when the key is in the "lock" or "accessory" positions. In addition, it is not possible to turn the key to the "lock" or "accessory" positions unless the transmission is in park. Given that the purpose of section S3.2 is to avoid the likelihood of shifting errors, we believe GM's electronic PRNDL designs not only satisfy that objective, but may in fact represent an improvement over conventional mechanical designs.
>
> A second major consideration is that the recent [agency] interpretations do not appear to use the term 'driver' as comprehended in the purpose of FMVSS 102. Recall that the requirement is that the PRNDL be permanently displayed in view of the driver. It seems to us that, for purposes of FMVSS No. 102, a driver is more than just someone who happens to be occupying the driver's seat. Any number of examples could be given, such as a small child who might crawl into the seat, or someone sitting at a drive-in theatre watching a movie, etc., where the seat is occupied but where the vehicle is not being operated.

No comments were received on the petition.

In light of the particular design of these vehicles, the noncompliance with Standard No. 102 reported by General Motors appears to be more of form than of substance. The vehicles are equipped with a system which prevents the transmission from being shifted when the key is in the "lock" or "accessory" position. When the ignition switch is moved out of these positions, the PRNDL display is activated, providing the driver with the information required by Standard No. 102 necessary to avoid errors in gear shifting.

In consideration of the foregoing, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Section 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on: April 11, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 88-8247 Filed 4-14-88; 8:45 am]

BILLING CODE 4910-59-M

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. Order 80-2-69 established the first interim SFFL and Order 88-2-30 set the currently effective two-month SFFL applicable through March 31, 1988.

In establishing the SFFL for the two-month period beginning April 1, 1988, we have projected nonfuel costs based on the year ended December 31, 1987 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as reported to the Department.

By Order 88-4-38 fares may be increased by the following factors over the October 1, 1979, level:

Atlantic	1.1863
Latin America	1.1769
Pacific	1.5293
Canada	1.1631

For Further Information Contact: Julien R. Schrenk (202) 366-2441.

By the Department of Transportation.

Dated: April 11, 1988.

[FR Doc. 88-8360 Filed 4-14-88; 8:45 am]

BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 73
Friday, April 15, 1988

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 MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., April 20, 1988.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Baton Rouge Marine Contractors, Inc.—Proposed Investigation of Unfiled Agreement.
2. Docket No. 87-22—United States Lines (S.A.) Inc.—Petition for Declaratory Order Re: The Brazil Agreements—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5723.

Joseph C. Polking,

Secretary.

[FR Doc. 88-8373 Filed 4-13-88; 9:40 a.m.]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, April 20, 1988, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8378 Filed 4-13-88; 10:05]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, April 20, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Publication for comment of proposed amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) to facilitate public access to financial information regarding state member banks.

2. Proposed uniform supervisory policy for finanical institutions regarding selection of securities dealers and unsuitable investment practices.

Discussion Item

3. Proposed amendment to Regulation T (Credit by Brokers and Dealers) to make certain foreign sovereign debt securities marginable.

4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or be writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: April 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-8379 Filed 4-13-88; 10:05 am]

BILLING CODE 62-10-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Friday, April 8, 1988.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Closed.

Consideration of disclosure of nonpublic information concerning an ongoing Part II matter to a member of Congress.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 88-8369 Filed 4-13-88; 9:01 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, April 13, 1988.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Briefing by Commissioner Calvani on recent speeches, and reactions thereto, on the subject of non-uniform state regulation in the franchise area.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 88-8370 Filed 4-13-88; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Monday, April 18, 1988.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW, Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Presentation by the American Association of Advertising Agencies and the Association of National Advertisers entitled "Genesis of a Successful Advertising Campaign".

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 88-8371 Filed 4-13-88; 9:01 am]

BILLING CODE 6750-01-M

Corrections

Federal Register
Vol. 53, No. 73
Friday, April 15, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 87-180]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries

Correction

In rule document 88-7435 beginning on page 11043 in the issue of Tuesday, April 5, 1988, make the following correction:

PART 92—[CORRECTED]

On page 11044, in the second column, in the **Authority** , in the first line, the first cite should read "7 U.S.C. 1622;".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[PP 5H5467/R937; FRL-3331-4]

Pesticide Tolerances for Ethephon

Correction

In rule document 88-3557 appearing on page 5367 in the issue of Wednesday, February 24, 1988, make the following correction:

§ 561.225 [Corrected]

In the third column, in § 561.225(a), in the table, the first heading "Foods" should read "Feeds".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E3457/R938; FRL-3333-2]

Pesticide Tolerance for 3,5-Dichloro-N-(1,1-Dimethyl-2-Propynyl)Benzamide

Correction

In rule document 88-3899 appearing on page 5378 in the issue of Wednesday, February 24, 1988, make the following correction:

§ 180.317 [Corrected]

In the second column, in § 180.317, in the heading, in the second line, "propynyl" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-240076; FRL-3333-3]

EPA Denial of Application for Federal Registration for Certain Intrastate Pesticide Products; Chevron Chemical Co. et al.

Correction

In notice document 88-3904 beginning on page 5459 in the issue of Wednesday, February 24, 1988, make the following corrections:

On page 5460:

1. In the table, in the second column, in the 34th and 35th entries, insert "Southern" in front of "Tobacco".

2. In the table, in the last column, the 13th entry should read "2224-5650 (MD)"; and the last entry should read "3286-8105 (TX)".

On page 5461:

3. In the table, in the first column, in the sixth entry, "32000" should read "3200".

4. In the table, in the last column, in the 26th and 27th entries "(TX)" should read "(GA)"; and in the 29th entry, "(TX)" should read "(AL)".

On page 5464:

5. In the table, in the first column, in the third line from the bottom of the table, "LA" should read "AL".

6. In the table, in the second column, in the 26th entry, insert a hyphen between "Dewey" and "Dimethoate"; and in the 30th entry, "Dylow" should read "Dylox".

7. In the table, in the last column, in the 16th entry "(IH)" should read "(HI)".

8. On page 5464, in the first column, in the first paragraph, in the first line, "Agency" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0098]

Drug Export; Intal® Nebulizer Solution (Cromolyn Sodium Inhalation, USP)

Correction

In notice document 88-5620 beginning on page 8513 in the issue of Tuesday, March 15, 1988, make the following correction:

On page 8514, in the second column, below the signature, insert "*Deputy Director*".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88M-0019]

IMRE Corp.; Premarket Approval of the Prosorba® Column

Correction

In notice document 88-3783 beginning on page 5320 in the issue of Tuesday, February 23, 1988, make the following corrections:

1. On page 5320, in the second column, under **SUPPLEMENTARY INFORMATION**, in the eighth line, "pasma" should read "plasma".

2. On page 5321, in the first column, in the second line, the U.S.C. cite should read "360e(d)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 412, 413 and 489

[BERC-462-P]

Medicare Program; Miscellaneous Changes Affecting Payment for Inpatient Hospital Services

Correction

In proposed rule document 88-6124 beginning on page 9337 in the issue of Tuesday, March 22, 1988, make the following corrections:

1. On page 9339, in the second column, preceding the last paragraph, the formulas should have appeared as follows:

Number of covered patient days of those patients entitled to both Medicare Part A and SSI (excluding those patients receiving State supplementation only)

Number of patient days of those patients entitled to Medicare Part A

Number of patient days of those patients entitled to Medicaid but not to Medicare Part A

Total number of patient days

2. On page 9340, in the second column, in the third complete paragraph, in the 14th line, "be used to" should read "not be used to".

§ 412.50 [Corrected]

3. On page 9342, in the first column, in § 412.50(b), in the fourth line, "impatient" should read "inpatient".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[BERC-270-F]

Medicare Program; Changes to the Lesser of Costs or Charges Provisions

Correction

In rule document 88-6833 beginning on page 10077 in the issue of Tuesday, March 29, 1988, make the following correction:

§ 413.13 [Corrected]

On page 10086, in the first column, in § 413.13(c)(1)(iii), in the 12th line, after "that", insert "its charges are less than costs because".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-08-4212-13; N-48171]

Realty Action; Exchange; Lyon County, NV

Correction

In notice document 88-6398 appearing on page 9708 in the issue of Thursday, March 24, 1988, make the following correction:

In the second column, under T. 11 N., R. 23 E., the first line should read "Sec. 1, S½SE¼,"; and the second line should read "Sec. 12, W½NE¼, SE¼.".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-320-08-4220-10]

Proposed Withdrawal; Nevada

Correction

In notice document 88-7788 appearing on page 11713 in the issue of Friday, April 8, 1988, make the following correction:

In the second column, under "T. 6 N., R. 33 E." in Sec. 26, "N¼SE ¼", should read "NE¼SE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Management-Labor Textile Advisory Committee; Partially Closed Meeting

Correction

In notice document 88–6816 appearing on page 10137 in the issue of Tuesday, March 29, 1988, make the following correction:

In the third column, in the second paragraph, in the first line, "10:30 p.m." should read "1:30 p.m."

BILLING CODE 1505-01-D

Federal Register

Friday
April 15, 1988

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 444

Oligosaccharide Antibiotic Drugs; Final Rules and Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 79N-0155]

Oligosaccharide Antibiotic Drugs; Neomycin Sulfate for Compounding Oral Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations which describe standards for nonsterile neomycin sulfate for prescription compounding. The amendments change the product name from "neomycin sulfate for prescription compounding" to "neomycin sulfate for compounding oral products" and require labeling to provide information concerning appropriate uses and to warn about the risks associated with inappropriate use. The labeling will state that the product is recommended for oral use only. Elsewhere in this issue of the **Federal Register** is a notice announcing the availability of guideline labeling for neomycin sulfate for compounding oral products and offering an opportunity for a hearing on the proposal to withdraw approval of antibiotic applications and abbreviated antibiotic applications for nonsterile neomycin sulfate products that are labeled in accordance with the antibiotic regulations. These actions are being taken because nonsterile neomycin sulfate, a prescription drug with a recognized potential for producing toxicity, is now supplied for prescription compounding without adequate labeling. The drug is being used for indications for which it lacks evidence of effectiveness and for which there is clinical evidence of significant risk to the patient. FDA is offering an opportunity for a hearing, under the formal rulemaking provisions in section 507(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357(f)) and the Administrative Procedure Act (5 U.S.C. 556 and 557), on objections to the final rule.

DATES: Effective June 14, 1988; notice of participation and request for hearing by May 16, 1988; data and information to justify a hearing by June 14, 1988.

ADDRESSES: Written comments concerning guideline labeling, requests for copies of the guideline, requests for hearing, and supporting data and information to Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your request.)

Requests for opinion of the applicability of this final rule to a specific product to Division of Drug Labeling Compliance (HFN-310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drug Evaluation and Research (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 27, 1979 (44 FR 44178), FDA proposed to revoke the provisions in the antibiotic drug regulations (specifically, § 444.942a) that provide for the certification of nonsterile neomycin sulfate for prescription compounding. This action was proposed primarily because FDA believed that the risks of the drug outweighed its benefits. The nonsterile drug was permitted to be shipped without a package insert identifying approved indications for use and describing adverse reactions and warnings. It was being used for indications for which FDA concluded, in the Drug Efficacy Study Implementation (DESI) project, sterile neomycin sulfate lacked evidence of effectiveness (37 FR 4224; February 29, 1972) and for which there is clinical evidence of significant risk to the patient. These indications include: (1) Intraperitoneal instillations; (2) use in wet dressings, packs, and irrigations to treat secondarily infected wounds and ulcers; and (3) use for intestinal instillation in emergency abdominal surgery. FDA believed that the nonsterile drug was no longer needed for the use for which it was initially made available—for extemporaneous compounding of individual prescriptions by pharmacists—because of the availability of neomycin sulfate in commercially prepared forms.

The agency received 55 written comments on the proposal from physicians, pharmacists, and pharmaceutical manufacturers. All but two of the comments were opposed to some aspect of the proposal. In addition, the agency received three requests for an informal conference. A notice of opportunity for an informal conference was published in the **Federal Register** of October 19, 1979 (44 FR 60331), and an informal conference was held on November 20, 1979. The comment period also was extended for 30 days after the date of the informal conference. The substantive comments and the agency's responses are discussed later in this document.

Based on its evaluation of these written and oral comments and on other information (discussed below), FDA concludes that nonsterile neomycin sulfate should be available for use in compounding oral prescription products. This final rule amends the regulations to change the product name and to require package insert labeling to inform users of the product about the risks associated with neomycin sulfate.

In a notice published elsewhere in this issue of the **Federal Register**, FDA is proposing to withdraw approval, under section 505(e) of the act (21 U.S.C. 355(e)), of the antibiotic applications and abbreviated antibiotic applications that are not supplemented, by the effective date of this final rule, to provide for the new product name and package insert labeling. The agency has prepared guideline labeling that manufacturers and suppliers may adopt to ensure that their labeling complies with the requirements of the revised regulations.

Only neomycin sulfate for prescription compounding is affected by this action. Other preparations containing neomycin, including otic, ophthalmic, oral, and dermatologic dosage forms may continue to be marketed. Elsewhere in this issue of the **Federal Register**, FDA is issuing a final rule based upon its proposal to revoke provisions for certifying sterile neomycin sulfate in vials for parenteral use and is proposing to withdraw approval of applications for those products.

II. Discussion

A. General Observations

Neomycin sulfate has the most potent ototoxic, nephrotoxic, and neuromuscular blocking potentials of the commercially available aminoglycoside antibiotics (Refs. 1 through 11). It also is the most strongly tissue bound. Ototoxicity, nephrotoxicity, neurotoxicity, or a combination of these toxic reactions has occurred following the irrigation of wounds (Refs. 12 and 13), decubitus ulcers (Refs. 4 and 14), joints (Refs. 15, 16, and 17), and fractures (Ref. 13); following intraperitoneal (Refs. 18 and 19), intrapleural (Refs. 20 through 23), mediastinal (Ref. 24), and rectal and colonic lavage (Ref. 25); following infusion into an empyema cavity (Ref. 26); following the use in sinuses (Ref. 27), and in dialysis fluid (Ref. 13); following local applications to prevent burn wound sepsis (Refs. 28 through 31);

following cutaneous applications of impregnated skin grafts (Ref. 32); and following an oral administration (Refs. 19 and 33 through 37). Moreover, substantial systemic absorption following topical administration of neomycin sulfate has been demonstrated (Ref. 38), in many cases by the presence of substantial serum concentrations (Refs. 16, 39, and 40), and at times with fatal outcome (Refs. 17, 18, 24, and 41). Toxicity associated with parenteral use is so great that this route has been essentially abandoned (Refs. 1, 4, 19, 42, and 43).

Indications for the use of neomycin sulfate have changed since it was first approved on March 7, 1951. Because of information about neomycin's toxicity and because less potentially toxic aminoglycosides such as gentamicin, tobramycin, netilmicin and amikacin sulfates now are available for systemic use, neomycin sulfate can no longer be recommended where significant systemic absorption may occur. The monograph for the one remaining indication for systemic use of sterile neomycin sulfate is being revoked elsewhere in this issue of the **Federal Register**. Orally administered neomycin sulfate is indicated only as adjunctive therapy in preoperative preparation of the bowel and in treatment of hepatic coma.

B. Ototoxicity

Deafness due to the parenteral administration of neomycin was first reported in 1950, just a little more than a year after the antibiotic was discovered, in four of six tuberculosis patients (Ref. 44). Shortly thereafter, five more cases were reported (Ref. 37). In each of these five cases, the adverse reaction was not noticed until some time after the treatment was discontinued. As early as 1959, a summary of 20 such cases shows that hearing loss occurred with treatment periods ranging between 3 and 58 days (Ref. 45). Within the next decade, neomycin ototoxicity was found to occur after use of the drug by all routes of administration that were common at the time: parenteral, aerosol, oral, wound and bowel irrigation, and cutaneous application (Ref. 46).

Safe and effective use of neomycin sulfate requires an understanding of its absorption, excretion, and toxicity in the inner ear. The characteristic pattern of neomycin-induced ototoxicity is the loss, which may be massive, of sensory hair cells, both inner and outer hair cells, supporting cells, and neurons (Refs. 19 and 47 through 49). Postmortem examinations of human temporal bones from patients who had received neomycin during peritoneal irrigation, including the temporal bone of a 10-year-old boy who had received only one peritoneal irrigation, showed complete disappearance of the organ of Corti in the basal turn of the cochlea and incipient degeneration of the distal ends of the cochlear nerve fibers in adjacent portions of the osseous spiral lamina (Ref. 19). Otopathologists have reported varying degrees of inner and outer hair cell degeneration and cochlear neuron degeneration in specimens from other patients with neomycin-induced sensorineural deafness (Refs. 47 through 49). The drug's ototoxic effect is not always the same in each patient, presumably because of wide individual variations in systemic absorption from the various routes of administration and because of patient-to-patient variations in the susceptibility of cochlear tissues (Ref. 50).

Polyphosphoinositides, lipids in inner ear tissues that are essential for the regulation of membrane structure and permeability, may be involved in neomycin ototoxicity. It has been suggested that the biochemical basis for neomycin's ototoxicity is the drug's inhibition of the metabolism of polyphosphoinositides (Refs. 47 and 51).

Neomycin, like other aminoglycosides, accumulates and is retained in the inner ear fluid or perilymph. Neomycin's rate of elimination from the inner ear is slower than the other aminoglycosides (Ref. 9) and far slower than its rate of elimination from the serum (Refs. 5, 8, 9, and 47). Significant accumulation of neomycin in the perilymph has been observed in guinea pigs. In one study, a single intramuscular injection of neomycin base, 150 milligrams per kilogram (mg/kg), resulted in a peak drug concentration in the perilymph of 7 to 8 micrograms per milliliter (micrograms/mL) after 3 to 6 hours (Ref. 9). The amount of neomycin decreased so slowly that only one-third had been eliminated after approximately 24 hours, when serum levels were undetectable. Traces of neomycin were detectable in the perilymph for up to 55 hours. When 150 mg/kg doses were repeated daily for 4 days, the concentration of neomycin in the perilymph increased significantly in a stepwise manner to a maximum of 20 micrograms/mL (Ref. 9). The concentration of neomycin in the perilymph did not fall below 1 microgram/mL until 72 hours after the last dose.

In a second guinea pig study, after a single subcutaneous injection of neomycin sulfate, 25 mg/kg, the concentration of neomycin in the perilymph rose to 111 micrograms/mL in 1 hour and was still 10.6 micrograms/mL 25 hours after the injection (Ref. 8). The half-life of the antibiotic in the perilymph was 15 hours, 10 times longer than its half-life in the blood (Ref. 8). Thus, ototoxicity may, to some extent, be explained by neomycin's high concentration in, and slow elimination from, the inner ear fluid. Less toxic aminoglycosides, show substantially lower levels in perilymph and faster elimination (Refs. 8 through 10 and 47). In the guinea pig, as in other species, neomycin also has a special affinity for sensory hair cells in the organ of Corti (Refs. 7 and 52 through 54).

Neomycin-induced ototoxicity was reported by Stebbins and coworkers in two monkeys that received the drug daily by the intramuscular route (Ref. 55). In one animal treated at a dosage of 100 mg/kg/day, neomycin was discontinued after 5 days because of nephrotoxic effects. A moderate hearing loss had developed at high frequencies (20 to 40 kilohertz (kHz)). In the other animal treated with 50 mg/kg/day, the drug was stopped after 15 days when signs of nephrotoxicity developed. Over the following 6 weeks, hearing loss progressed from a moderate loss at high frequencies to total deafness in both ears. The phenomenon of delayed damage to the organ of Corti occurs in other species as well.

Under the stereomicroscope, cochlear lesions in these monkeys showed all gradations of destruction. The organ of Corti in the lower basal turn had completely disappeared. In the upper basal turn, supporting structures were present but both inner and outer hair cells were absent. An abrupt transition to a normal hair cell pattern occurred at the beginning of the middle turn of the cochlea. Radial nerve fibers in the basal turn were missing. Cochlear locations for threshold response were sharply defined and correlated with the extent of hair cell damage and nerve degeneration, the basal turn being the location for the response to high frequencies. Histopathology similar to that found in monkeys has been reported for humans who received therapeutic doses (Refs. 19 and 47 through 49).

In humans, destruction by neomycin of practically all sensory hair cells and some neural tissue, first at the basal turn of the cochlea (the area for hearing high frequency tones), is common (Ref. 19). Low frequency deafness (apical turn of the cochlea) appears last and vestibular involvement is rare (Ref. 50). Unlike renal tubular cells, damaged cochlear hair cells cannot be regenerated. Once hair cell destruction begins, damage

progresses even after dosing has been discontinued (Refs. 4, 5, 19, 47, and 50).

Deafness is usually a delayed-onset adverse reaction but may appear suddenly (Refs. 24 and 49). Neomycin-induced hearing loss may not be apparent until well after the patient has completed the course of treatment (Refs. 35, 39, 40, and 43). Latency periods are usually 2 to 6 weeks after the initiation of treatment and deafness may progress for 6 to 10 months (Refs. 5, 56, and 57). The absence of symptoms and the absence of an abnormal audiogram at the end of therapy do not mean that neomycin-induced hearing loss will not develop later or that it has not already developed at frequencies above 8,000 kHz, higher than conventional audiometer is capable of detecting. Lethargy, headaches, confusion, or tinnitus may occur just before a hearing loss is recognized (Ref. 4). Once symptoms develop, the deterioration of hearing cannot be averted. Serial audiography over a period of 6 to 10 months reveals a gradually progressive, sometimes partial but usually profound, bilateral sensorineural hearing defect (Refs. 5, 20, 22, 28, 33 through 35, 40, 44, 45, 47, 56, and 57). Ototoxicity occurs regardless of age, with or without concomitant nephrotoxicity (Ref. 16), and there is no threshold or dose level below which toxicity cannot be expected to occur (Ref. 22). The ototoxicity of neomycin is additive to the ototoxicity of certain other ototoxic drugs, i.e., other aminoglycosides, vancomycin, polymyxin B, and furosemide (Ref. 57).

C. Nephrotoxicity

The nephrotoxicity of neomycin sulfate is well established (Refs. 1, 4, 10, 15 through 17, 23, 24, 32, 35, 39, 40 through 43 and 58 through 60). Patients with neomycin-induced nephrotoxicity develop sloughing of renal tubular epithelial cells, cylindruria, hematuria, and increased blood urea nitrogen. The renal damage is primarily in the tubules and is manifested as dose-related tubular cell necrosis. Vacuolization of the proximal renal tubular epithelium has also been reported (Refs. 58 and 61).

D. Neuromuscular Blockade

Neuromuscular blockade induced by neomycin sulfate may be manifested in different ways. Coleman and co-workers summarized published reports of respiratory arrest in 12 anesthetized pediatric patients (4 were fatal) that occurred between 10 and 30 minutes after intraperitoneal absorption of neomycin (Ref. 18). Craig and co-workers summarized published reports of severe respiratory depression in 25 patients (8 were fatal) (Ref. 62). Neomycin-induced neuromuscular blockade has been reported as cessation of respiration and coma (Ref. 17); lethargy with progressive flaccidity and coma with dilated pupils after anesthesia (Ref. 18); apnea and unconsciousness 6 hours after irrigation of a septic gunshot wound (Ref. 39); and flaccid extremities, dilated pupils, and intermittent unconsciousness beginning 3 hours after intraperitoneal instillation of neomycin (Ref. 63). In most cases intraperitoneal lavage had been given. Neomycin sulfate is thought to decrease the influx of the calcium ion into the motor nerve terminal, which in turn decreases the output of acetylcholine at the myoneural junction (Refs. 18, 64, and 65). Transmission at this site normally depends on the release of acetylcholine into the synaptic space. This curariform toxicity is similar to that caused by the other aminoglycosides.

E. Adverse Events Reported

Since 1969 FDA's Drug Experience Surveillance Program has maintained a computerized file of spontaneous reports of adverse events associated with the use of neomycin sulfate (Ref. 41). Because these reports come from a variety of sources, the quality of information in the system varies from excellent, e.g., a detailed case summary attached to pages reproduced from a hospital record, to very poor, e.g., a physician's report giving the word "deafness" with no other information. Thus, a causal relationship between neomycin sulfate and the reported adverse event cannot be established with certainty in all cases. However, many of these reports do specify the dosage, the period for which the drug was used, and the route of administration. The following table lists the adverse events reported to FDA that were associated with the use of neomycin sulfate in 194 patients; 17 of these were fatal. It covers the reporting period from 1969, when computerization began, to March 6, 1984.

DRUG EXPERIENCE REPORTS ASSOCIATED WITH USE OF NEOMYCIN, 1969 THROUGH MAR. 6, 1984, ROUTES OF ADMINISTRATION

Adverse reaction	Irrigations	Intramuscular	Intravenous	Intravenous, oral, and rectal	Rectal	Rectal and oral	Unknown	Oral	Ointment	Cream	Ophthalmic	Otic	Total
Ototoxicity alone	31	3				1	11	7					53
Ototoxicity and nephrotoxicity	8	1				1	2	1					13
Ototoxicity and neurotoxicity			2										2
Ototoxicity and nephro- and neurotoxicity	2			1(1)							1		4(1)
Ototoxicity and hypersensitivity or miscellaneous	1	1							1				3
Total ototoxicity													75
Nephrotoxicity alone	3	2(1)	1				1(1)	10(3)					17(5)
Nephrotoxicity and exfoliate dermatitis							1						1
Neurotoxicity alone or with other	6(6)							5(1)					11(7)
Neurotoxicity and nephrotoxicity	1(1)												1(1)
Hypersensitivity alone or with other	7				1		1	13	9	11	1	2	45
Hypersensitivity and GI disorder							2						2
Gastrointestinal	2(1)					1	3	10(1)					16(2)
Other	2		4				4(1)	10	2	1	3	1	26(1)
Total	63(8)	9(1)	5	1(1)	1	3	25(2)	57(5)	11	12	5	3	194(17)

Numbers in parentheses are fatalities.
Three of 4 intravenous cases were inadvertent intravenous administrations of a product compounded for irrigation.

There were 75 reports of ototoxicity. Ototoxicity alone occurred in 53 cases and was accompanied by nephrotoxicity and neurotoxicity in 19 cases. Nephrotoxicity or renal failure was reported 35 times. There were 17 reports of neuromuscular blockade and/or other neurotoxicity. Some of the toxicity experiences may have been due to the additive toxicities of other aminoglycosides, because parenteral kanamycin, gentamicin, streptomycin, or tobramycin sulfates were given concomitantly or sequentially in approximately 13 cases. Twenty-one patients were at risk for additive toxicity due to concomitant irrigation with a fixed or nonfixed combination of neomycin plus polymyxin B (a nephrotoxic and neurotoxic antibiotic) and bacitracin (another nephrotoxic antibiotic). Ototoxicity and nephrotoxicity may have been enhanced in some patients because of the concomitant administration of furosemide and/or ethacrynic acid, both potent, high-ceiling diuretics which are themselves ototoxins.

Of the 17 fatalities, 8 were associated with topical irrigations with neomycin and 5 were associated with prolonged oral use. One such case involved an 11-year-old male who received daily irrigations with 3,000 mL of a 1-percent neomycin sulfate solution to the left hip joint over a period of 8 days for septic arthritis. The boy developed lethargy and cardiac arrest when the hip irrigation system did not drain well. His post-mortem neomycin sulfate blood level was 21.2 micrograms/mL. At autospy his kidney tissue revealed proximal tubular necrosis and his lung tissue showed pulmonary edema.

F. Conclusions: Risk Verus Benefit

The value of using antibiotics in solutions for orthopedic, intraperitoneal, intrapleural, and other surgical wound irrigations to prevent infections remains controversial (Ref. 66). At least one publication states that neomycin should never be used for peritoneal irrigation (Ref. 67). Evidence from the published literature and from FDA's Drug Experience Surveillance Program demonstrates that the use of neomycin sulfate, particularly when appreciable amounts can be absorbed systemically, is associated with significant risk of serious adverse reactions: ototoxicity, nephrotoxicity, and neurotoxicity. These toxic reactions involved prophylactic uses of the drug as well as therapeutic uses. The acceptability of the associated risks with these two types of uses differs slightly: ideally, a prophylactic regimen should be freer from unacceptable and harmful side effects than a therapeutic regimen. An adverse reaction to a prophylactic antibiotic becomes unacceptable when that adverse reaction approaches the seriousness of, or is more serious than, the infection it is intended to prevent or the consequences of that infection.

The benefit of using neomycin sulfate solutions to irrigate surgical wounds has not been demonstrated. In the DESI project, FDA concluded that evidence was lacking to support the effectiveness of sterile neomycin sulfate for such uses. Although some published reports suggest that the local instillation of neomycin during surgical procedures is effective, other publications report that efficacy has not been established. To FDA's knowledge, none of the published reports that recommend the local instillation of neomycin sulfate include followup evaluations long enough after treatment was discontinued to measure the degree of systemic absorption and to determine if delayed-onset, neomycin-induced adverse reactions occurred. Without such long-term followup assessments, clinical reports of the benefits of using neomycin sulfate for wound irrigation must be considered to be incomplete.

Moreover, local antibiotic irrigation at the operative site has disadvantages: (1) Dosage cannot be easily individualized; (2) the antibiotic does not reach the wound until after contamination has begun; (3) distribution is uneven in that the antibiotic does not reach all remote areas in the wound; and (4) systemic absorption cannot be controlled. Generally, delivery of an antibiotic to the tissues at the site of an infection is more efficient by the vascular route following systemic administration.

FDA concludes that the risks of adverse reactions from the use of neomycin sulfate irrigations are significantly greater than any demonstrated benefits.

Safety and efficacy have been demonstrated for a number of less toxic alternatives to the local instillation of neomycin sulfate in surgical procedures. The following antimicrobial agents for injection have approved indications for use during the perioperative period for the prevention of infections: cephalothin, cephradine, cephapirin, cefazolin, cefamandole, cefoxitin, cefuroxime, cefonicid, ceforanide, cefotaxime, ceftriaxone, cefotetan, and piperacillin.

When injected before the operative procedure begins, these beta-lactam antibiotics rapidly diffuse into tissues at the operative site. Bactericidal concentrations are maintained in these tissues and in tissue fluids for the full length of many operations; booster injections based upon the drug's elimination half-life may be given when surgery is prolonged. Aside from reduced toxicity, the advantages of parenteral administration of these beta-lactam antibiotics are: (1) Bactericidal concentrations of the antibiotic are present in the tissues before and throughout the period of greatest contamination; (2) dosage may be individualized based upon the patient's weight, age, and state of renal function; and (3) tissue diffusion is more likely to be complete so that there is uniform distribution of the drug to all areas.

The risk versus benefit considerations are different for orally administered neomycin sulfate. Because systemic absorption is low with oral administration, the risk of toxicity is reduced. Adequate evidence supports the effectiveness of neomycin sulfate oral tablet and oral solution preparations as adjunctive therapy for preoperative suppression of intestinal bacteria and for treatment of hepatic coma. For these two indications only, FDA has concluded the benefits outweigh the risks.

If nonsterile neomycin sulfate is to be available for use in compounding oral products for these two approved indications, the agency has concluded it must be labeled to include warnings about the risks of serious toxicity associated with systemic absorption.

III. Response to Comments

A summary of the substantive comments to the 1979 proposal and the agency's responses follows.

A. General Comments

1. Several comments contended that the proposed revocation of the provisions for certification of neomycin sulfate is not based on sound medical reasoning. The comments claimed that neomycin sulfate is being used safely and effectively, that there is no satisfactory substitute available, and that many lives will be endangered if the drug is removed from the market.

The agency believes that sound scientific data support its conclusion that neomycin sulfate for prescription compounding is being used for indications for which it lacks evidence of effectiveness and for which there is clincial evidence of significant risk to the patient. In addition, the agency does not believe that the comments have offered sufficient data from controlled studies to refute this evidence. FDA provided documented evidence supporting its conclusions in the July 27,

1979, proposal and cites additional evidence in this document.

No situations have been identified in which human lives might be endangered either by the action proposed in 1979 or by the actions in this document. The management of hepatic coma is the only life-threatening condition for which neomycin is indicated. Neomycin sulfate oral products, not affected by the actions in this document, are approved for this condition. Hepatic coma also may be treated with oral preparations of kanamycin or lactulose.

2. Several comments asserted that the proposed removal of nonsterile neomycin sulfate powder is an unauthorized infringement on the professional rights of physicians and pharmacists. The comments stated that not all medications can be administered in dosage or prepackaged forms, not all patients can be treated with manufactured products, and certain emergencies can require extemporaneous compounding. The comments said that physicians today must take advantage of all available scientific information to treat specific medical conditions before them. According to the comments, FDA must permit practitioners to use their best judgment in selecting either a dosage form medication, an oral administration, an extemporaneously prepared compound, or any other medication that may be necessary for the patient's welfare. One comment stated that FDA is, in effect, attempting to regulate surgical procedures.

FDA disagrees that this action is an infringement on the professional rights of physicians and pharmacists, and it is not an attempt to regulate surgical procedures. FDA is requiring labeling for neomycin sulfate for prescription compounding to provide information about its use for conditions for which it has been clinically shown to present significant risk to the patient.

FDA does not regulate the practice of medicine. However, it is FDA's statutory responsibility to determine which drug products are safe and effective and, thus, suitable for prescribing, and to determine what information about the drugs is necessary to permit safe and effective prescribing by the physician. The physician may, as part of the practice of medicine, prescribe an approved drug for an unapproved use and otherwise vary the conditions of use from those approved in the labeling. The physician, therefore, is responsible for making the final judgment about treatment in light of the information in drug labeling and other medical information available to him. FDA believes that good medical practice and patient welfare require that physicians remain free to use approved drugs according to their best knowledge and judgment.

3. One comment contended that there is no proof that neomycin sulfate for prescription compounding is being used for indications other than those approved. Another comment stated that an article cited in the proposal from *Hospital Pharmacy* (Ref. 68) does not say that neomycin sulfate is misused, but praises the effective use of neomycin sulfate for prescription compounding and explains how to prepare it.

FDA advises that reports of inappropriate prescribing of neomycin sulfate, especially those reporting serious adverse reactions, can be found in many medical publications such as those referenced in this document and in the proposal. Such reports also can be found in FDA's drug experience files, in the public comments summarized in this document, and in other communications with FDA. These reports demonstrate that the drug is being used for purposes for which it is neither labeled nor intended. Indeed, the article from *Hospital Pharmacy* cited by the comment had also been cited in the proposal as an example of the kind of information appearing in the scientific literature promoting the inappropriate uses of neomycin sulfate.

4. A comment stated that removal of neomycin sulfate for prescription compounding contradicts FDA's initial reason for approving the drug—to provide pharmacists with pure bulk powder instead of tablets in order to extemporaneously compound prescriptions. Another comment maintained the proposal is contradictory because FDA is proposing to revoke certification of neomycin sulfate for prescription compounding but continues to certify the use of neomycin sulfate when mixed with other ingredients such as polymyxin B sulfate.

FDA is not removing neomycin sulfate for prescription compounding from the market as originally proposed. However, new clinical evidence demonstrating unreasonable risk associated with most uses of neomycin sulfate has become available since neomycin sulfate products were originally approved. Based on its review of the comments received and other information cited herein, the agency now has concluded that (1) neomycin sulfate for prescription compounding can be recommended for compounding preparations for oral use only, and (2) labeling is needed to warn users of the product about the risk of administering the drug under conditions where it may be systematically absorbed in significant quantities.

The agency disagrees that this action regarding the nonsterile neomycin sulfate product is inconsistent with the treatment of approved prepared dosage forms. Each finished dosage form product has its own specific strength, identity, and labeling. The safety and effectiveness of each such formulation are supported by clinical data. Because their dosage regimens have been carefully studied, are very specific, and have been found by qualified investigators to be both safe and effective as recommended, such commercially prepared neomycin sulfate products are preferred. An unlimited variety of preparations could be compounded from nonsterile neomycin sulfate; most such preparations, however, have not been clinically tested for safety and effectiveness. As a result of this action, specific dosage and administration information will be provided for oral neomycin sulfate preparations compounded for the approved indications, suppression of intestinal bacteria and treatment of hepatic coma, for which FDA believes there is adequate evidence of safety and effectiveness.

B. Comments About Medical Uses for Neomycin Sulfate

5. Several comments argued that neomycin sulfate for prescription compounding should not be removed from the market because it is needed as a terminal irrigant before wound closure in patients undergoing major orthopedic surgery, particularly total hip replacement, and in irrigating wounds during other surgical procedures. The comments said that this solution has been in use for some time and no adverse effects, including ototoxicity and nephrotoxicity, have been reported by practitioners who follow their patients for an extended period of time.

The agency disagrees. Use of neomycin sulfate for prescription compounding to prepare irrigation solutions lacks evidence of effectiveness and presents significant risk to the patient. The National Research Council of the National Academy of Sciences reviewed the efficacy of neomycin sulfate sterile powder for its labeled indications, including irrigation, as part of the DESI project. After extensive scientific review, the agency published its conclusions about that product's effectiveness on May 13, 1970, and February 29, 1972 (DESI 7837). Neomycin sulfate sterile powder was found effective only for treatment of certain urinary tract infections when

administered by intramuscular injection. Evidence of effectiveness was found lacking for all other claims, including intraperitoneal instillation, use as wet dressings, packs, or irrigations, treatment of varicose ulcers and eye infections, and intestinal instillation in emergency abdominal surgery. The agency considers these conclusions to be equally applicable to the use of the nonsterile powder for compounding formulations intended for the same indications.

FDA believes that there also is a lack of substantial evidence of safety for use of the drug in irrigations during orthopedic surgery (Refs. 12, 13, 15, 16, 27, 38, 41, and 59). Irrigation results in systemic absorption leading to substantial serum and tissue levels. Also, the drug is unevenly distributed at the operative site. Davia reported neuromuscular blockade, renal failure, and a permanent 90 to 95 decibel bilateral hearing loss following one single irrigation of a complicated fracture site in an 18-year-old male (Ref. 39).

6. Several comments argued that neomycin sulfate for prescription compounding should be available for use in augmentation mammaplasty and in the use of other silicon-rubber implants or other prosthetic devices, and as a solution to soak bone grafts prior to implementation. One comment said that neomycin sulfate is used to prevent wound infection in patients undergoing renal transplantation. Another comment noted that "Wynn's solution" containing neomycin, chloramphenicol and polymyxin B has been dispensed for irrigation. According to another comment, neomycin sulfate is used as a prophylactic topical application for foreign prosthetic devices.

The agency concludes that soaking a device or an organ such as above graft in a neomycin sulfate solution may suppress the growth of some microorganisms but will not sterilize the device or organ as contended by the comment. Devices for implantation, such as heart valves, artificial joints, other prostheses, and miscellaneous implants, are usually supplied by the manufacturer in a sterile state or are maintained in a sterile environment. When devices and organs that are left in place after an operation continue to provide open avenues for bacterial colonization or entry, parenteral antimicrobial agents should be considered for prophylaxis.

The agency considers the use of neomycin sulfate solution to soak bone grafts and silicone-rubber implants prior to surgical implantation, and the use of neomycin in an antibiotic solution for the prophylactic topical application to prosthetic devices, to be investigational. In these procedures, large quantities of the antibiotic are disseminated systemically after the solution is instilled in the patient's tissues, and there are inadequate data to establish safe dosage under these circumstances.

7. One comment argued that a 1-percent neomycin sulfate irrigant should be available for use in the bladder following routine instrumentation. The comment's author knew of no harmful effects from this procedure and said that, before FDA withdraws the drug, a double-blind clinical trial should be carried out.

The agency agrees that clinical investigation is needed to provide data on the efficacy, as well as safety, of neomycin sulfate as the single active ingredient in a bladder irrigant product but disagrees that such an investigation is needed before issuance of this final rule. Because there apparently is little or no systemic absorption of neomycin when it is used for irrigation of the intact urinary bladder, toxicity from urinary bladder irrigation generally may not be a problem. (Substantial systemic absorption accompanies irrigation of other sites.) The commercially prepared product containing a fixed combination of neomycin and polymyxin B for bladder irrigation, for which adequate evidence of safety and effectiveness exists, is not affected by this action.

8. One comment argued in favor of the use of a 1- or 2-percent neomycin sulfate irrigating solution in the peritoneal cavity and the use of a 5-percent solution in contaminated sinus wounds. The comment maintained that the risks of ototoxicity and nephrotoxicity are dose related, and that if the proper concentration and dosage are used and the solution is adminstered properly, the drug is safe. Another comment stated that a neomycin sulfate solution is used as a quick method to sterilize fecal spillage in the abdominal cavity and to help sterilize a ruptured appendiceal abscess where systemic antibiotics would not. Another comment noted that a neomycin sulfate solution is used to sterilize a staphylococcal infection in a hernia with Marlex mesh and to help heal a total gastrectomy with a thoracoabdominal fistula.

The agency believes that no concentration and dosage of neomycin sulfate for the irrigation purposes described in these comments has been shown to be safe. There is evidence that significant absorption takes place with these irrigations. Neomycin sulfate solutions, when used to irrigate operative sites, can be very toxic and have caused deaths (Refs. 17, 24, and 41). Even after a single irrigation, neomycin sulfate can be absorbed in amounts substantial enough to produce toxicity (Ref. 39). Systemic absorption that follows irrigation of the peritoneum with these concentrations of neomycin sulfate is equivalent to that which follows a parenteral injection. Furthermore, this route of administration lacks the dosage control of an injection. Once neomycin is absorbed, although the greatest fraction of the dose is rapidly excreted by the kidneys, a high level rapidly develops in the inner ear fluids where the drug is eliminated very slowly over a period of weeks. Applying suction after topical instillation cannot be relied upon to remove the aminoglycoside (Ref. 69), because a significant portion of the drug will have already circulated to both the cochlea and the renal cortex by the time suction is applied. There have been reports that, even though the patient experienced early adverse reactions, neomycin irrigations were continued without the prescriber's being aware that adverse reactions were neomycin induced (Refs. 13, 16, and 17).

The thick wall of an empyeme cavity does not prevent absorption following instillation of neomycin sulfate solution. Meakins reported profound respiratory failure and renal failure following instillation of 1,000 mL of a 1-percent solution in the thoracic cavity of a patient with recurrent empyema who was already totally deaf because of aminoglycosides (Ref. 23). Other authors have reported severe ototoxicity from intrapleural use of neomycin sulfate (Refs. 21, 22, and 26). Gruhl reported a case of renal failure, deafness, brain lesions, and death following 11 days of irrigation of the mediastinum with 2.4 liters (L) of 0.3-percent neomycin solution every 24 hours (Ref. 24).

9. One comment argued that neomycin sulfate is needed in neurosurgical procedures, to irrigate closed space infections, such as those that rarely occur following the removal of an intervertebral disc, and for both intracranial and spinal operations, especially if contamination is thought to have occurred. The comment stated that a 1 mg/mL (0.1-percent) concentration of the nonsterile powder is used to prepare a solution that is subjected to microfiltration followed by autoclave sterilization. The comment stated that concentrations less than 10 mg/mL have been found to be safe, and that a 0.1-percent solution is nonepileptogenic and does not produce cortical depression. The comment added that, although there have not been well-controlled efficacy studies, the widespread use of neomycin

sulfate attests to its acceptance by neurosurgeons and that it is questionable whether truly controlled trials could be conducted.

The agency does not have data from studies in humans to support the safety and efficacy of the local use of neomycin sulfate in the irrigation of closed place infections such as those mentioned in this comment. Concentrations of less than 10 percent, which the comment stated had been found to be safe, were nonepileptogenic, and did not produce cortical depression, appear to have been tested in only three cats (Ref. 70). Six concentrations were tested. Because blood-brain barriers for cats differ from those for humans and effects may be different when tissues are inflamed, these results cannot be applied directly to humans. The study fails to consider individual variations in human tolerance. Although no effects were seen with concentrations of 0.01 percent, and minimal changes were seen at 0.1 percent, locally applied neomycin sulfate in higher concentrations depressed electrocortical activity in cats and produces an inflammatory reaction in the brain as demonstrated by histological studies. Also, neomycin sulfate did produce epileptogenic activity at a higher concentration. Finally, local application of the drug to feline or human neutral tissue has not been evaluated, weeks after treatment ended, for delayed-onset ototoxicity.

FDA agrees that it would not be easy to conduct the usual kind of randomized controlled efficacy trials for these neurosurgical procedures. However, under the law testimonial statements, such as the one in the comment claiming that the widespread use of neomycin attests to its acceptance by neurosurgeons, cannot be substituted for the scientific data required to establish safety and effectiveness. Furthermore, the prophylactic use of antimicrobial agents in neurosurgery is not recommended (Refs. 66 and 67).

10. One comment urged that neomycin sulfate be available for use in staged colonic resections, to prepare the distal defunctionalized portion of the colon by administering a neomycin sulfate irrigant through the distal colostomy and the rectum. The comment cited numerous articles that, according to the comment, substantiate the safe and effective use of neomycin sulfate when proper dosage and administration are followed. The comment stated that in 15 years of using neomycin sulfate, only one patient became deaf, and this was because large doses of neomycin sulfate had been orally administered to a patient with ulcerative colitis. Another comment maintained that neomycin colostomy irrigations are useful for patients with obstructing lesions of the intestinal tract that may prohibit the use of oral antibiotics.

FDA considers the administration of neomycin sulfate through a colostomy site or through the rectum to be investigational. These routes of administration are not included in the labeling for neomycin products because safety and efficacy data are lacking. The agency has reports that total irreversible bilateral deafness has followed neomycin sulfate irrigations of the distal colon and rectum (Ref. 41).

Although the short-term oral administration of neomycin sulfate can be relatively safe, neomycin should not be considered a nonabsorbable antibiotic in the gastrointestinal tract. Approximately 3 percent of an orally administered dose is excreted by the kidney (Refs. 40 and 71). Oral administration has led to significant drug levels in blood and has been associated with ototoxicity (Refs. 19, 33 through 36, 41, and 56). Even the absorption of small amounts of neomycin that result in relatively low serum levels can produce ototoxicity because of drug accumulation and retention in the inner ear if the exposure is prolonged over weeks to months. There may be an increased risk of toxicity if damage to the gastrointestinal tract occurs or if surgical intervention results in increased absorption. In cases of intestinal obstruction or renal impairment, serum levels following oral administration may exceed levels attained after parenteral administration. Ruben and Daly reported profound deafness in a 45-year-old female 1 month after just two oral doses (total 11 grams) given prior to a right colectomy for a partial small bowel obstruction. She became anuric, then noticed a hearing loss 8 days after the first dose (Ref. 35).

11. Several comments contended that irrigation solutions combining neomycin sulfate, bacitracin, and polymyxin B sulfate are both safe and effective, and that these drugs are frequently combined in irrigation solutions for renal transplantation, for orthopedic surgery, for burn therapy, for neurosurgery, and for other surgical specialities.

Orthopedic surgeons, neurosurgeons, and surgeons specializing in the treatment of burns have reported serious toxicities, including bilateral permanent deafness, resulting from the use of this triple combination. Absorption from wounds and granulating surfaces is significant; serum concentrations are comparable to and often higher than those attained with intramuscular therapy. Davia and co-workers reported total permanent bilateral deafness and renal failure following irrigations of orthopedic wounds with these three ingredients in two patients, one having only a single irrigation (Ref. 39). Hemodialysis was required for the other patient who experienced not only permanent deafness but also acute neuromuscular blockage. Bamford and Jones reported deafness in six children ranging in ages from 8 to 16 months following treatment for full-thickness burns with topical sprays containing neomycin, bacitracin, and polymyxin B or E (Ref. 28). Gelman and co-workers reported acute renal failure during the immediate postoperative period on 8 of 41 patients who underwent total hip replacement in which a neomycin-bacitracin-polymyxin B irrigating solution was used twice during the procedure (Ref.15). Little and Lynn reported that a burn covering only 10 percent of the body surface area was treated with an aerosol combination of neomycin, bacitracin, and polymyxin, and the patient became deaf in 17 days (Ref. 30). Graham reported bilateral sensorineural deafness in a 5-year-old girl treated with an aerosol mixture of neomycin, bacitracin, and polymyxin for burns over 80 percent of her body surface (Ref. 31). Rwylin described three cases of extensive necrosis of the epithelium of the proximal convoluted tubules following a single intraperitoneal instillation of 50,000 units of bacitracin and 0.5 g of neomycin. The author suggested that both antibiotics contributed to the tubular damage because both are nephrotoxic and have produced similar lesions individually (Ref. 72).

Labeling for all three of these antibiotics indicates that each one is potentially nephrotoxic. Updated labeling for the aminoglycosides (netilmicin, amikacin, gentamicin, tobramycin, kanamycin, streptomycin, and oral neomycin) even includes box warnings that concurrent and/or sequential systemic or topical use of other potentially neurotoxic and nephrotocix drugs, including bacitracin and polymyxin, should be avoided.

The labeling for polymyxin B sulfate and neomycin sulfate also warns that both products are ototoxic. In addition, neomycin is the most potent neuromuscular blocking aminoglycoside, and polymyxin B sulfate is a potent neuromuscular blocking polypeptide. Their neuromuscular blocking potentials are additive not only in terms of potency and duration but also in terms of the

characteristics of the blocks produced (Ref. 63). The combination product Neosporin® G. U. Irrigant, containing neomycin sulfate and polymyxin B sulfate, is approved for use as an irrigation solution of the intact urinary bladder, where systemic absorption is minimal.

The agency concludes that the concurrent or sequential use of these products should be avoided where systemic absorption may occur.

12. One comment objected to the proposal because neomycin sulfate for prescription compounding is used in the care of severely burned patients. The comment argued that although there is a chance of drug toxicity in these cases, prohibiting the use of the drug would be far worse.

FDA disagrees with this comment because of evidence of toxicity resulting from such use (Refs. 28 through 32) and because of progress in the control of post-burn sepsis without the use of neomycin sulfate. The goal in treating most full-thickness burns of significant size is to reduce the risk of infection. Adequate primary therapy consists of prompt removal of necrotic tissue and immediate closure with biological dressings such as allographs and autographs (Ref. 42). Selection of either the appropriate parenteral antibiotic or the appropriate local therapy for infected burns is based upon the specific contaminating organisms and the safety of the drugs. The antimicrobial agent not only must be effective against the isolated pathogens, but also must be locally and systemically nontoxic if it is absorbed. Two of the topical agents that have approved labeling indications for the management of burn wounds are silver sulfadiazine, and mafenide acetate.

Local instillation of neomycin in open burn wounds results in significant absorption and systemic toxicity. There is no evidence to support the routine prophylactic use of neomycin in major burn injury (Ref. 73). The use of burn dressings impregnated with aminoglycosides has been associated with the development of bacterial resistance and toxicity (Ref. 1). Sugarbaker reported permanent deafness and nephrotoxicity following 29 days of local applications of porcine skin xenographs commercially impregnated with neomycin in the treatment of a partial thickness burn involving 35 percent of the body surface (Ref. 32). As discussed in the preceding paragraph, Bamford and Jones reported severe reactions in six children following the use of topical antibiotic aerosol sprays containing neomycin sulfate, polymyxin B, and bacitracin for the treatment of full-thickness burns covering body surface areas ranging from 10 to 22 percent. All six children developed delayed-onset deafness. Three developed renal failure and three developed tetany associated with a metabolic imbalance (Ref. 28).

13. One comment reported using both nonsterile and sterile neomycin sulfate in the preparation of topical gels, ointments, and sprays as part of the prophylactic regimen for patients undergoing cancer chemotherapy in protected-environment units. The comment stated that neomycin sulfate is compounded with vancomycin, polymyxin B, and nystatin in a topical ointment, and with vancomycin and polymyxin B in a spray.

These uses of these products are outside the scope of this rulemaking and are investigational. Before these uses can be approved and included in the INDICATIONS section of a product's labeling, data on their safety and effectiveness must be submitted for evaluation.

14. Comments from two pediatricians who treat children with chronic lung disease, especially cystic fibrosis, stated that one form of therapy used is an aerosol inhalation, and that neomycin sulfate is used in the aerosol. The comments stated that, theoretically, neomycin sulfate suppresses *Staphylococcus aureus*, a major component of the bacteria in children with this disorder. Another comment noted that there is no conclusive evidence that this form of therapy is particularly effective in suppressing the growth of this organism, but contended that it is accepted therapy and has never been shown to be harmful. The comment said that the drug should remain in use until studies are performed that show it is ineffective.

FDA disagrees with the comment that aerosol inhalation of neomycin has never been shown to be harmful. Neomycin has been reported to be absorbed in toxic amounts by this route. As early as 1960, Fuller reported deafness in two children resulting from the aerosol inhalation of neomycin for the treatment of staphylococcal infections (Ref. 20).

15. Several comments argued that neomycin sulfate for prescription compounding should not be removed from the market because of its use in the preparation of enemas and in compounding oral dosage forms. The comments cited the following as conditions appropriate for treatment with neomycin sulfate enemas: hepatic encephalopathy or coma, cirrhosis, colostomy surgery, biopsy of the prostate, Reye syndrome, and the preoperative preparation of the bowel. In addition, the comments cited the following as conditions appropriate for treatment with oral dosage forms: colon and rectal operations, preoperative bowel preparation, and hepatic coma. One comment asserted that neomycin sulfate in tablet and solution formulations has been used successfully since 1945 to sterilize the colon prior to resection and in other types of intestinal surgery. Another comment stated that neomycin sulfate enemas should be permitted because they are useful for patients who are unable to take medications orally.

The agency does not believe that neomycin sulfate can be recommended for use in the preparation of enemas. Adequate clinical data on the extent of absorption, safe dosage ranges, safe treatment periods, and drug effectiveness after rectal administration are not available. Breen and co-workers studied absorption following oral and enema administration and concluded that "enema-administered neomycin is absorbed to the same extent as that administered orally, and intestinal ulceration does not enhance neomycin absorption" (Ref. 74). However, this one report is not adequate to provide detailed prescribing information for this route of administration. Clinical evidence concerning the safety or effectiveness of neomycin sulfate used as an enema in the treatment of Reye syndrome also is unavailable.

Although there is significant systemic absorption following the local instillation of neomycin sulfate in the peritoneal cavity and other tissues during surgery, the agency believes that the short-term oral administration of the drug can be relatively safe. Neomycin sulfate is poorly absorbed from an intact gastrointestinal tract following oral administration. Currently available oral tablets and oral solutions will not be affected by this action. The current labeling for these oral products recommends their use as adjunctive therapy for the suppression of intestinal bacteria as in the preoperative preparation of the bowel and for the treatment of hepatic coma for periods up to 3 weeks. (Oral tablets should not be instilled into an operative site. FDA has received a report about a patient who lost her hearing following the instillation of two neomycin tablets directly into an infected postoperative cholecystectomy wound twice daily for 8 days.) The agency agrees that neomycin sulfate should be available to compound prescriptions for oral use for the two approved indications. Compounded oral

solutions may be useful for patients who are unable to take solid dosage forms.

16. One comment stated that, although neomycin sulfate is not approved for enema use in the treatment of hepatic encephalopathy, there is no other antibiotic that has been approved for this use that has low toxicity and is economical to the patient. The comment asserted that kanamycin, a possible alternative, is not approved for enema use and is much more toxic, and that the only dosage form available for compounding is the injectable product which is very expensive. Other comments noted that lactulose, another drug which may be used instead of neomycin sulfate as an enema preparation in patients in hepatic coma, may not be effective in some patients and has not been approved by FDA for this indication.

FDA notes that, although kanamycin is not approved for enema use in the treatment of hepatic coma, it is approved for oral administration. Kanamycin sulfate, an aminoglycoside closely related to neomycin with similar ototoxic and nephrotoxic potentials, is slightly less toxic than neomycin sulfate (Refs. 2, 5, 6, 11, 22, 42, 43, 50, 55, 75, and 76). Kanamycin-induced hearing loss also can be rapid in onset, progressive, and severe, can occur after the administration of small quantities, and may continue to develop after cessation of treatment (Ref. 2). Its absorption from the gastrointestinal tract is about 1 percent, however, less than the 3-percent systemic absorption of neomycin (Ref. 43), and its rate of elimination from the inner ear is faster (Ref. 9).

Although slightly less ototoxic, kanamycin, like neomycin, first attacks the outer hair cells of the basal turn of the organ of Corti. Neomycin sulfate, however, destroys both the outer and inner hair cells and distal ends of the fibers of the cochlear nerve, as well as most of the supporting cells, and affects all turns of the cochlea (Ref. 13). With kanamycin there is said to be nearly complete preservation of nerve fibers despite outer hair cell loss, and the progression of kanamycin-induced hearing loss may be arrested, or in a few patients reversed, by terminating therapy after the first signs of ototoxicity appear (Ref. 47). As with all aminoglycosides, impaired renal function potentiates this effect. The labeling for kanamycin sulfate oral capsules states that the capsules are indicated when suppression of the normal bacterial flora of the bowel is desirable for short-term adjunctive therapy, and for treatment of hepatic coma.

Lactulose syrup, contrary to the comment, is approved by FDA for oral and rectal administration for the prevention and treatment of portal-systemic encephalopathy, including hepatic pre-coma and coma states. When compared in a controlled double-blind clinical trial in the treatment of hepatic encephalopathy, both lactulose and neomycin sulfate were equally effective (Ref. 77). The *AMA Drug Evaluations* indicates that lactulose is preferred for long-term therapy because of its lower toxicity (Ref. 1).

17. One comment argued that commercially prepared dermatologic drug products should not completely replace extemporaneously prepared products made with neomycin sulfate for prescription compounding. The comment stated that dermatologists, particularly in high volume clinics, frequently have uniquely formulated products. Another comment stated that the risk of adverse side effects is greatly diminished when neomycin sulfate is topically applied, and that neomycin sulfate for prescription compounding should be permitted to remain on the market with a label restricting its use to dermatological applications only. The comment maintained that approximately 15 percent of the neomycin sulfate powder sold is used for dermatological preparations and that removal would cause an unjustified hardship. The comment added that if FDA would permit the product to be marketed only in 100-g containers with modified and restricted labeling, the agency would have easy access to records of the product being shipped and would be in a better position to monitor unapproved uses.

FDA notes that there are many commercial preparations containing neomycin sulfate that are already available for dermatologic, ophthalmic, or otic use, and also one for urological use. This action will not affect the availability of bulk neomycin sulfate that is supplied to pharmaceutical manufacturers for use in making these specific dosage forms. With the revocation of provisions for certification of (and withdrawal of approval of applications for) neomycin sulfate sterile powder, the only remaining prescription products in which neomycin sulfate is the only active ingredient will be neomycin sulfate oral tablets and solution and, as discussed below, neomycin sulfate for compounding oral products. There is adequate evidence of the safety and effectiveness of these approved products for their labeled indications, suppression of intestinal bacteria and treatment of hepatic coma. Adequate evidence is not available, however, to support the agency's approval of the use of nonsterile neomycin sulfate for extemporaneously compounded preparations other than for oral use.

If nonsterile neomycin sulfate is to remain available it must be labeled to provide full prescribing information for safe use of the product. "Neomycin sulfate for prescription compounding," to be renamed "Neomycin sulfate for compounding oral products," will be required to have package insert labeling, including warnings and the same indications for which the oral tablets and solution are approved. Additional indications may be added to the labeling when a supplement containing adequate evidence of their safety and effectiveness is submitted and approved.

18. Several comments referred to the use of specific concentrations of neomycin sulfate irrigation and enema solutions, contending that the risks of ototoxicity and nephrotoxicity are dose related and that, if the proper concentration and dosage are used and if neomycin is administered properly, the antibiotic is safe. One comment said that tentative guidelines for irrigating solution concentrations and usage should be developed.

The agency has concluded that no specific concentrations of neomycin sulfate irrigation and enema solutions can be recommended as safe and effective without further study. Serious permanent toxic reactions have been reported in the medical literature following the use of concentrations ranging from very dilute to as high as 10 percent (Ref. 27). In published reports of local irrigations, the amount of the drug used has almost always greatly exceeded what appears to be necessary. (See the response to comment 8, above.) A 1-percent concentration is often 1,000 times greater (range = 16 to 2,000 times greater (Ref. 10)) than most mean inhibitory concentrations needed in vitro to eradicate the expected microorganisms (Refs. 10, 42, and 50). Weinstein demonstrated that striking systemic absorption occurred in all 10 patients undergoing hip replacements who received single 5- to 20-minute local irrigations with a 1-percent neomycin solution (Ref. 38). Irrigating volumes were small, varying from 500 to 1,150 mL with a neomycin dose range of 66.7 to 202.7 mg/kg. These doses are 4 to 13 times those previously recommended for parenteral use. Peak serum concentrations (up to 15.5 micrograms/

mL) were attained in 5 of the 10 patients by 15 to 30 minutes and in 4 others by 1 hour. Serum concentrations at 2 hours ranged from approximately 1.2 to 10 micrograms/mL, and at 4 hours all remained higher than 1.2 micrograms/mL. Two patients had concentrations above 9 micrograms/mL at 4 hours. In other reports, these serum levels of neomycin have been associated with nephrotoxicity and ototoxicity (Refs. 16 and 39).

FDA does not agree that guidelines for irrigating solutions should be developed. Because safety and effectiveness have not been established for the use of neomycin sulfate in irrigating solutions, even very dilute solutions, the agency cannot make recommendations about dosage and administration.

C. Comments With Labeling Suggestions

19. Several comments recommended other ways to safeguard against the toxicity problems associated with neomycin sulfate for prescription compounding rather than withdrawal of the drug from the market. Some of the recommendations were to: (a) Provide label and package insert contraindications and warnings; (b) include in the labeling all indications for which similar products are approved, i.e., ophthalmic, otic, oral, and topical, including dermatological, uses and include directions for these uses; (c) continue to certify the product pending final resolution of an appropriate package insert.

FDA agrees with the comments recommending complete labeling for neomycin for prescription compounding and has not withdrawn the product pending resolution of guideline labeling. However, FDA does not believe that it has a basis for including labeling for all the indications for which products containing neomycin sulfate are approved and are readily available. Except for neomycin sulfate oral tablets and solutions, all prescription products containing neomycin sulfate are fixed combinations that also contain one or more other active ingredients. Approval of a fixed combination for a specific indication does not provide the basis for approval of one of the ingredients alone for the same indication. Effectiveness of a fixed combination is based upon the antimicrobial activities of specific quantities of two or more antimicrobial agents added together. The agency is not aware of data that establish the safety and effectiveness of neomycin sulfate alone for any indication in prescription drug labeling except for the indications in the approved labeling for the oral neomycin products.

20. One drug manufacturer commented that the proposal failed to mention that the Anti-Infective Agents Advisory Committee recommended immediate inclusion of a boxed warning on the product's labeling that would emphasize the drug's ototoxicity and nephrotoxicity potentials, and that the proposal also failed to mention the committee's conclusion that pharmaceutical manufacturers should be contacted to add to the boxed warning.

Another comment recommended that a package insert and a boxed statement on the container label be used to provide pharmacists and physicians with adequate information on the risks involved. Because the drug has a fairly large container, the comment added, there is ample room on the existing label to put a boxed warning statement to warn about absorption and to request that the accompanying package insert be read. The comment stated that neomycin sulfate should be permitted for use in irrigating solutions and that the physician should be permitted to make a benefit-risk judgment concerning the use of neomycin sulfate in these and other circumstances where significant systemic absorption may occur.

FDA notes that the proposal did state that a boxed warning was recommended by the Anti-Infective Agents Advisory Committee for neomycin for prescription compounding (44 FR 44178 at 44179; July 27, 1979). However, the proposal also explained that because the product was shipped in bulk for prescription compounding, it was permitted to be shipped without a package insert that would have described approved indications for use, adverse reactions, and warnings. Moreover, pharmaceutical manufacturers were contacted and given an opportunity for input when FDA provided for a comment period on the proposal, when FDA held an informal conference November 20, 1979, and when the comment period was extended at the manufacturer's request.

Because the drug is being used for indications for which it lacks evidence of effectiveness and for which there is clinical evidence of significant risk to the patient, FDA believes that neomycin sulfate can no longer be permitted to be shipped without adequate labeling. FDA agrees that a package insert is needed to provide pharmacists and physicians with the information necessary for the safe and effective use of the drug, including its potential hazards. A boxed warning on the container label, although a step in the right direction, would be too brief to provide essential scientific information that is needed for the safe and effective use of the drug (21 CFR 201.56). The following sections from the specific requirements on the content and format of the labeling (21 CFR 201.57), are applicable to aminoglyoside antibiotics: description, clinical pharmacology including microbiology, indications and usage, contraindications, warnings, precautions, adverse reactions, overdosage, dosage and administration, how supplied, and if appropriate, animal pharmacology and/or animal toxicology.

FDA's labeling guideline for neomycin sulfate for compounding oral products provides the required information. The guideline states first that the product is not for intra-operative irrigation and other parenteral use. A boxed warning describes the ototoxic and nephrotoxic reactions that have been reported following parenteral, aerosol, and oral administration, topical application to wounds, bowel and surgical irrigation, and other uses. The warning advises that renal impairment is not a prerequisite for ototoxicity and that ototoxicity is not always dose-related. In addition, the WARNING section states that neuromuscular blockade and respiratory paralysis have been reported following the use of neomycin.

The guideline advises that because fatal and irreversible toxic reactions may follow the local instillation of neomycin during surgical procedures and the local application of neomycin to full-thickness burns, these routes of administration should be avoided.

The INDICATIONS section of the labeling guideline states that oral neomycin is indicated as adjunctive therapy (1) as part of a regimen for preoperative suppression of normal bacterial flora of the bowel and (2) in hepatic coma. This section also includes a statement that evidence of safety and effectiveness is lacking for the administration of neomycin through the distal portion of the colon in staged colonic resection and through the rectum as an enema to treat acute hepatic coma.

In requiring labeling to provide information concerning appropriate uses and to warn about the risks of inappropriate use, FDA is not preventing any physician from making his or her own benefit-risk judgments about the use of neomycin. A physician's decision to use an approved drug in a given situation does not depend solely upon whether or not that use is indicated in the labeling.

D. Other Comments

21. One comment, contending that neomycin sulfate is approved by FDA as

an irrigant, referred to an FDA-approved package insert for Neosporin® G. U. Irrigant, an irrigation solution consisting of a combination of neomycin sulfate and polymyxin B sulfate. The comment noted that polymyxin does not reduce any of the alleged toxic effects of neomycin sulfate. The comment also requested copies of scientific studies that prove neomycin is absorbed when used in irrigating solutions.

Neosporin® G. U. Irrigant is a fixed combination approved by FDA for use as an irrigation solution of the intact urinary bladder. One mL (containing neomycin sulfate equivalent to 40 mg neomycin base and 200,000 units of polymyxin B sulfate) is to be diluted in 1,000 mL isotonic saline solution. When the urinary bladder is intact, systemic absorption of the prepared solution is minimal. Approval of this fixed combination product does not provide the basis for approval of neomycin sulfate for prescription compounding for this indication. Efficacy of the fixed combination, based upon the antimicrobial activities of specific concentrations of two antibiotics, is broader than that of each of the two active ingredients alone. The data used by the agency to conclude that Neosporin® G. U. Irrigant is safe because it is not absorbed from the intact urinary bladder, and that it is effective as an irrigation solution, are different from the data that would be required to demonstrate the safety and effectiveness of a given concentration of neomycin sulfate as a single-ingredient irrigation preparation.

Regarding the request for copies of studies, there are many published reports of absorption following neomycin sulfate irrigation, some of which are included in the reference list in this document.

22. One comment stated that FDA has asked companies that manufacture or sell neomycin sulfate for prescription compounding to produce scientific studies to show its safety. The comment said that of all the aminoglycosides on the market today, only neomycin sulfate is no longer patented. Therefore, the comment claimed, no company will expend large amounts of money to prove the safety of the drug because that company would have no exclusive rights to its product. The comment argued that it is inconsistent for FDA to request such studies because the agency must already have such data in support of the approved package insert for Neosporin® G. U. Irrigant, which contains neomycin sulfate as a component. The comment stated that the same data used by FDA in approving a product that contains neomycin sulfate as a component should apply to neomycin sulfate for prescription compounding. The comment also noted that the package insert for Neosporin® G. U. Irrigant includes the following contraindication: "This product is contraindicated in those individuals who have shown hypersensitivity to any of its components." The fact that Neosporin® G. U. Irrigant has such a contraindication, the comment argued, should require that neomycin sulfate for prescription compounding remain on the market, because a solution of neomycin sulfate in its pure form would still be available for a patient who shows hypersensitivity to polymyxin B sulfate.

FDA believes that if there is actually a need for neomycin sulfate as a component in an enema or irrigation solution, manufacturers will be economically motivated to conduct the scientific studies or submit the published reports that are necessary to demonstrate its safety and effectiveness in these products. Concerning the comment's statement that FDA already has safety and effectiveness data for Neosporin® G. U. Irrigant, the agency advises, as stated in the response to comment 21 above, that these data are different from the data that would be required to establish the safety and effectiveness of neomycin sulfate alone. The data supporting Neosporin® G. U. Irrigant are from studies on a finished, fixed-combination dosage form containing both neomycin sulfate and polymixin B sulfate. These data are not applicable to nonsterile neomycin sulfate for prescription compounding because the effectiveness of the combination product results from the antimicrobial activities of specific quantities of the two antibiotics together. In addition, the required prescribing information regarding appropriate dosing and administration is lacking for the use of neomycin sulfate as a single ingredient product for irrigation of the bladder for polymyxin B sulfate-hypersensitive patients. Information regarding dosage and administration is particularly important for neomycin because of its known toxicity.

23. Noting that the proposal stated that neomycin sulfate was approved in 1964 as a dermatological preparation, one comment disagreed that neomycin sulfate for prescription compounding was ever used as a dermatologic preparation. The comment stated that FDA provided for batch certification of neomycin sulfate in response to a petition filed by the American Society of Hospital Pharmacists (ASHP). The comment enclosed a copy of the ASHP petition requesting the approval of neomycin sulfate as (1) a solution for wet dressings, (2) a solution for irrigation, (3) an ophthalmic medication of various strengths, (4) an ophthalmic medication using different ointment bases, and (5) a medication prescribed for individual patient needs. The comment concluded that, originally, dermatologic uses were not even discussed.

FDA disagrees with this comment. The original applications for neomycin sulfate sterile vial, approved by FDA on March 7, 1951, indicated that one of the uses for the drug was as an ointment for the topical treatment of skin infections in both humans and animals. In addition, the September 19, 1963, petition from ASHP also stated that a need existed for several compounded medications including "neomycin sulfate ointments in special bases professionally preferred by dermatologists."

24. Several comments contended that removing neomycin sulfate for prescription compounding from the market will not stop the uses of neomycin sulfate that the proposal is intended to prevent. One comment noted that the proposal would remove from the market only the bulk and the injectable neomycin sulfate, leaving neomycin sulfate as an oral solution, in tablet form, and in other products which have neomycin sulfate as a component. The comments contended that physicians who prefer to continue using neomycin sulfate solutions will direct the pharmacist to grind neomycin sulfate tablets or to further dilute neomycin sulfate oral solution. The comments argued that this would risk exposing the patient to potentially adverse ingredients because the pure bulk neomycin sulfate powder and the sterile injection would no longer be used. Another comment asserted that neomycin sulfate tablets are not a good substitute for the bulk powder because, in addition to being inconvenient, the binders in the tablets do not dissolve. The resulting solution would be cloudy and would have a residue. In addition, the use of tablets or solution will make it more difficult and time-consuming for the pharmacist to make the compounded solution.

Many comments said that the withdrawal from the market of neomycin sulfate for prescription compounding would result in increased medical costs to practitioners and patients. The comments said other forms of neomycin sulfate, such as the oral solution, the tablet form, and other

products which have neomycin sulfate as a component, will be used for prescription compounding instead of the bulk powder. The comments cited data to demonstrate the higher costs of these neomycin sulfate products and other aminoglycosides.

FDA must protect the public against the risks of death, disability due to irreversible bilateral deafness, renal failure, and respiratory paralysis associated with unapproved uses of neomycin sulfate. The agency cannot support the continued misuse of the product on the basis of cost or convenience.

Rather than removing the product from the market as originally proposed, FDA is revising the regulations and requiring labeling that will contain strong warnings about the unapproved uses. FDA is hopeful that these measures will help to prevent further misuse of neomycin sulfate.

25. Several comments asserted that FDA's proposal to request a recall to the retail level for all products covered by certificates for batches of neomycin sulfate for prescription compounding is excessive and unnecessary. The comments stated that the publicity received by the proposal has already alerted most users to the potential hazards of unapproved uses of the product. The comments also stated that recall or discontinuing certification penalizes those who are using the product for indications that FDA considers acceptable. The comments also questioned FDA's urgency in requesting a recall, noting that the agency waited 27 months to publish the proposal and that many more months will elapse before the final rule is published.

The agency agrees that a recall may no longer be necessary because the final rule imposes only a new requirement for drug labeling rather than revocation of certification, as proposed. Nevertheless, it is important that prescribers and pharmacists be informed about the risks of toxicity associated with the uses of neomycin sulfate that result in significant systemic absorption. Therefore, supplements providing for package insert labeling in accordance with the guideline must be submitted to approved antibiotic applications or abbreviated antibiotic applications for the products affected by this final rule, by June 14, 1988.

26. One comment stated the proposal would contribute to the elimination of the small pharmaceutical company from the marketplace because it is the smaller company that usually manufactures and sells bulk products, while the larger pharmaceutical manufacturers sell dosage form medications.

FDA disagrees. This final action is not removing the product from the marketplace and thus is not contributing to the elimination of any pharmaceutical companies, small or large.

27. One comment stated that it was not included in early FDA meetings with The Upjohn Co. and Elkins-Sinn, Inc., two firms that marketed neomycin sulfate for prescription compounding. The comment said it was not aware of FDA's intention to withdraw the product from the market until August 11, 1979, whereas the other firms knew as early as 1977.

FDA did not hold early meetings with pharmaceutical manufacturers as contended by the comment. The issue of neomycin sulfate was discussed at an open meeting of FDA's Anti-Infective Agents Advisory Committee on April 4, 1977. A representative from Squibb & Sons, Inc., attended the meeting and participated in the discussion. Although the meeting was announced in advance in the **Federal Register** and open to the public, no other pharmaceutical manufacturer chose to participate. Both the minutes of the meeting and the transcript of the proceedings are filed with FDA's Dockets Management Branch and are available for public inspection.

28. One comment claimed the proposal is based largely on information obtained from an unnamed pharmaceutical company. The comment stated that no written documentation or information is contained in the proposal to substantiate the company's position, and the simple fact that this unnamed company received 100 inquiries concerning neomycin sulfate does not mean that the drug is not safe or effective. The comment said it is possible that the unnamed company has economic motives for its position.

The proposal was not based on information from a pharmaceutical company. FDA's position is documented by publications in the medical literature cited in this document and by FDA's drug experience files, and is supported by both the Anti-Infective Agents Advisory Committee's recommendations and by the Drug Efficacy Study Implementation project.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

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V. Conclusions

FDA has reached two conclusions as a result of reviewing (1) the written and oral comments on the proposal, (2) findings of the Drug Efficacy Study Implementation published in the **Federal Register** of May 13, 1970 (35 FR 7464) and February 29, 1972 (37 FR 4224), (3) reports in the medical literature, (4) reports in the agency's drug experience files, and (5) information available to support updating currently approved neomycin products. First, there are inadequate data to support the safety and efficacy of neomycin sulfate for use in irrigation solutions in the treatment of infected wounds and ulcers; for use on burns; for prophylactic local use before, during, or after surgical procedures, e.g., intraperitoneal suction-irrigation, fractures and joint replacement surgery, neurosurgery, and for other types of surgery and traumatic wounds; for rectal or colonic irrigation or as a retention enema; for intrapleural instillations; for use in wet dressings; for aerosol inhalation; for solutions to soak bone grafts, skin grafts, and silastic implants; and for any similar use under conditions where neomycin may be systemically absorbed in significant quantities. In addition to the lack of evidence of safety and efficacy of neomycin sulfate for these indications, there is evidence of significant drug toxicity for most of them.

Second, the agency finds that there is adequate safety and efficacy information to continue to allow marketing of nonsterile neomycin sulfate for compounding oral prescription products if full prescribing information is provided.

VI. Amendment to the Antibiotic Regulations

Under 21 CFR Part 433.1 (a) and (b), antibiotic drugs are exempt from batch certification requirements if: (1) The drug is approved for marketing under an appropriate antibiotic application or abbreviated antibiotic application, (2) the drug is packaged and labeled for dispensing in accordance with the applicable regulation or approved application, (3) the bulk drug used in preparing the antibiotic drug product meets the standards of identity, strength, quality, and purity specified in the applicable regulation or approved application, and (4) the antibiotic drug product meets the standards of identity, strength, quality, and purity specified in the applicable regulation or approved application.

The regulation applicable to nonsterile neomycin sulfate for prescription compounding (21 CFR 444.942a), is being amended to change the product name to specify use in compounding oral products and to require package insert labeling. With these amendments, nonsterile neomycin sulfate for prescription compounding cannot be certified or released. Except where other labeling has been approved in an applicable application, nonsterile neomycin sulfate for prescription compounding is not exempt from batch certification requirements. Only nonsterile neomycin sulfate products that are named and labeled in accordance with the amended regulations will be exempt from batch certification.

VII. Economic and Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12291 does not apply to an action such as this at the stage where the action is subject to opportunity for hearing under 5 U.S.C. 556 and 557. Furthermore, the Regulatory Flexibility Act does not apply to this proceeding because the proposed rule was issued before the effective date of the Act. Nevertheless, the agency has examined the economic impact of this final rule and has determined that this impact is insignificant. The final rule amends the antibiotic regulations to change the product name and to require package insert labeling. No additional burdens are imposed upon manufacturers.

VIII. Availability of Guideline

A separate notice published elsewhere in this issue of the **Federal Register** announces the availability of guideline labeling that describes the kind of information to be included in the package insert labeling for this product. The guideline sets forth specific language that would be acceptable to the agency. Copies are available from Dockets Management Branch (address above) under Docket No. 87D–0315.

IX. Notice of Opportunity for a Hearing

The amendments become effective 60 days after the date of publication of this final rule. At that time, batches of nonsterile neomycin sulfate will no longer be certified, released, or exempt from certification unless named and labeled in accordance with the amended regulations. Any person who will be adversely affected by the final rule amending the antibiotic regulations may file objections to it and request a hearing as provided in section 507(f) of the act (21 U.S.C. 357). Reasonable grounds for the hearing must be shown, as specified in 21 CFR 314.300. If requests for hearing are granted both on objections to the final rule and on the proposal to withdraw approval of the antibiotic regulations that is published elsewhere in this issue of the **Federal Register**, the hearings will be combined in a single proceeding under 21 CFR Part 12 and 5 U.S.C. 556 and 557.

Any person subject to this final rule who decides to seek a hearing shall file: (1) on or before May 16, 1988, a written notice of participation and request for hearing, and (2) on or before June 14, 1988, the data, information, and analyses on which the person relies on to justify a hearing, as specified in 21 CFR 314.300. Any other interested person may also submit comments. The procedures and requirements governing this notice of opportunity for hearing, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, or other comments, and a grant or denial of a hearing are contained in § 314.300.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order,

or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request the hearing, making findings and conclusions and denying a hearing.

All submissions under this order are to be filed in three copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 444

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 444 is amended as follows:

PART 44—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 444 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. Section 444.942a is amended by revising the section heading and by revising paragraphs (a)(1) introductory text, (3) introductory text, and (4)(i), to read as follows:

§ 444.942a Neomycin sulfate for compounding oral products.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate for compounding oral products is the sulfate salt of a kind of neomycin or a mixture of two or more such salts. It is so purified and dried that:

* * * * *

(3) *Labeling.* It shall be labeled in accordance with the requirements prescribed by § 432.5(a) of this chapter. Its expiration date is 12 months.

(4) * * *

(i) In addition to complying with the conditions of § 431.1 of this chapter, a person who requests certification of a batch of neomycin sulfate for compounding oral products shall submit with the request a statement showing the batch mark, the number of packages of each size in the batch, and the date on which the latest assay of the drug comprising such batch was completed. Such request shall be accompanied or followed by results of tests and assays made on the batch for potency, moisture, pH, and identity.

* * * * *

Dated: March 30, 1988.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 88-8189 Filed 4-14-88; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 444

[Docket No. 79N-0151]

Oligosaccharide Antibiotic Drugs; Sterile Neomycin Sulfate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to revoke the provisions for certification of neomycin sulfate in sterile vials for parenteral use. This action is being taken because the risks involved in the parenteral use of neomycin sulfate are judged to outweigh any benefits that might be derived from its continued availability. FDA is offering an opportunity for a hearing on objections to this revocation under the formal rulemaking provisions in section 507(f) of the Federal Food, Drug, and Cosmetic Act (the act) and the Administrative Procedure Act (5 U.S.C. 556 and 557). Elsewhere in this issue of the **Federal Register** is a notice offering an opportunity for a hearing on the proposal to withdraw the approval of antibiotic applications and abbreviated antibiotic applications for neomycin sulfate in sterile vials for parenteral use.

DATES: Effective June 14, 1988; comments, notices of participation, and requests for hearing by May 16, 1988; data, information, and analyses to justify a hearing by June 14, 1988.

ADDRESSES: Written comments concerning requests for hearing, supporting data, and information to Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this final rule to a specific product to Division of Drug Labeling Compliance (HFN-310), Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drug Evaluation and Research (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 27, 1979 (44 FR 44180), FDA proposed to revoke the provisions of its antibiotic drug regulations (21 CFR 444.42a) that provide for the certification of neomycin sulfate in sterile vials for parenteral use. This action was taken because there is clinical evidence that parenterally administered neomycin sulfate can induce significant toxicity including ototoxicity (manifested as sensorineural hearing loss), nephrotoxicity, and neuromuscular blockade. In addition, there is evidence that the sterile vial of neomycin sulfate, which has been approved by FDA only for intramuscular administration in the treatment of certain urinary tract infections, is being used to prepare irrigation solutions. As concluded in the Drug Efficacy Study Implementation notice published on February 29, 1972 (37 FR 4224), evidence of effectiveness is lacking for the use of sterile neomycin sulfate in the irrigation of wounds. Moreover, there is clinical evidence that such use poses a significant risk to the patient, as described in the July 27, 1979, proposal and in another final rule published elsewhere in this issue of the **Federal Register** concerning neomycin sulfate for prescription compounding. A third reason for the proposed action was that, as concluded by FDA's Anti-Infective Agents Advisory Committee, use of this dosage form for the single remaining approved indication, the treatment of urinary tract infection, is no longer acceptable because of the availability of newer, safer antibiotics that are as effective as, or more effective than, parenteral neomycin sulfate and that do not present comparable risks.

After the proposal regarding sterile neomycin sulfate was published on July 27, 1979, FDA received three requests for an informal conference, and also received two requests for an extension of the comment period on the related proposal regarding nonsterile neomycin sulfate for prescription compounding. A notice of opportunity for an informal conference was published in the **Federal Register** of October 19, 1979 (44 FR 60331), and an informal conference was held on November 20, 1979. In addition, the comment period was extended for 30 days after the date of the informal conference.

The agency has carefully considered all of the comments received on the proposal and has concluded that the risks involved in the parenteral use of neomycin sulfate outweigh any benefits that might be derived from such use. This final rule amends the regulations to

revoke provisions for certifying neomycin sulfate in sterile vials for parenteral use. In a notice published elsewhere in this issue of the **Federal Register**, FDA is proposing to withdraw approval under section 505(e) of the act of the antibiotic applications and abbreviated antibiotic applications for sterile neomycin sulfate.

Only neomycin sulfate in sterile vials for parenteral use is affected by this action. Other dosage forms of neomycin sulfate (oral, dermatologic, ophthalmic, and otic) and sterile and nonsterile bulk neomycin sulfate used in the preparation of some of these dosage forms are not affected by these actions. However, elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule amending the antibiotic drug regulations (21 CFR 444.942a) for nonsterile neomycin sulfate for prescription compounding. That amendment changes the product name from "Neomycin sulfate for prescription compounding" to "Neomycin sulfate for compounding oral products" and requires package insert labeling that includes indications for use and warnings about the drug's toxicity.

II. Responses to the Comments

In addition to the comments submitted during the informal conference, the agency received eight written comments. Four of the written comments opposed the proposal. A summary of the substantive comments and the agency's responses follow:

1. Several comments said that sterile neomycin sulfate powder in vials is used to prepare irrigation solutions. The comments said that the solution is used in augmentation mammaplasty, as a wash for other silastic implants for total joint replacement procedures, and as a neurosurgical irrigation solution. The comments also said that sterile neomycin sulfate powder in vials is used to prepare neomycin enema and neomycin colostomy irrigations and is used in the preoperative preparation of surgical patients. One comment noted that the injectable form is more convenient because it does not require subsequent sterilization. The comment also said that the solution is effective since wound infections have not been observed after its use. Another comment explained in detail that the contents of the sterile vial are added to saline or water to make irrigating solutions. The comment contended that the sterile vial provides a quick method for getting a 2-percent or less solution when there is fecal spillage in the abdominal cavity. The comment noted the use of a sterile 5-percent irrigating solution in infected hernia wounds. The comment also claimed that if the drug is no longer permitted for topical application, the surgeon will be unable to manage surgical complications. Several comments stated that orthopedic surgeons and other surgeons continue to use neomycin in wound irrigations that require a substantial number of sterile 500-milligram (mg) vials (containing 350 mg of neomycin base). One physician argued that both the nonsterile powder and the sterile neomycin sulfate powder in vials have been used for 13 years to prepare topical sprays, gels, and ointments for patients undergoing cancer chemotherapy in protected environment units. The comment said that topical formulations containing neomycin and other antibiotics in combination are applied to the gums, ears, groin, perianal region, rectum, vagina, anterior nares, or throat up to four times a day.

The agency advises, as explained in the proposal of July 27, 1979 (44 FR 44181), to this final rule and in greater detail in the final rule about nonsterile neomycin sulfate for prescription compounding, published elsewhere in this issue of the **Federal Register**, that the use of neomycin sulfate for irrigation lacks evidence of effectiveness and has produced clinical evidence of significant risk to the patient. Since 1972 sterile neomycin sulfate powder in vials has been approved by FDA only for intramuscular use in the treatment of certain urinary tract infections. In addition, because of the drug's toxicity, its labeling has stated that the drug should be reserved for hospitalized cases with this condition in which no other antimicrobial agent is effective. Many other less toxic and more effective aminoglycosides (such as gentamicin, tobramycin, netilmicin, and amikacin) and other antimicrobial agents are available as alternatives for the approved indication recommended in the labeling.

2. Several comments said that, with respect to both sterile and nonsterile formulations, prudent neomycin sulfate therapy has a place in the physician's armamentarium of antibiotics. One comment said that toxic effects are always considered by health professionals when drug therapy is designed, and that risks and benefits must be weighed against each other when prescribing any drug.

Although the agency agrees that risks and benefits of any drug therapy must be weighed against each other, toxicity associated with parenteral administration of neomycin sulfate is well documented and more severe than that associated with available alternatives. Most experts have avoided the parenteral use of neomycin sulfate since the end of the 1950's because of its toxicity and because of the availability of safer drugs. FDA's Anti-Infective Drugs Advisory Committee recommended that the preparation be removed from the market.

3. One comment contended that there are very limited, unique uses for sterile neomycin sulfate, and that appropriate labeling can control any misuse of the product.

The agency does not believe that labeling would effectively control the misuse of sterile neomycin sulfate nor that unique uses of neomycin sulfate remain. Such labeling is justified only when it can be demonstrated that the continued use of the drug product will serve a useful purpose provided the labeling is observed. As already explained in this document and in the proposal, sterile neomycin sulfate is approved only for intramuscular administration in the treatment of certain urinary tract infections for hospitalized patients for whom no other antimicrobial agent is effective. Despite these restrictions in the product's labeling, this product continues to be used for irrigation in the treatment of various other conditions with significant risk to patients. In addition, FDA's Anti-Infective Drugs Advisory Committee concluded in 1977 that this dosage form is essentially no longer used for the single remaining approved indication, the treatment of certain urinary tract infections. The committee also noted that newer, safer antibiotics, as effective as parenteral neomycin sulfate, are available for this indication.

4. One comment took issue with the statement in the proposal that FDA will "require a recall to the retail level for all products covered by these certificates." The comment argued that section 301(k) of the Federal Food, Drug, and Cosmetic Act, which prohibits the doing of any act that would result in the adulteration or misbranding of an article being held for sale after shipment in interstate commerce, would not be applicable to the revocation of a certificate by FDA.

This product is currently exempt from certification under the provisions of § 433.1 (21 CFR 433.1). Therefore, the issue of the revocation of certification is now moot. In view of the time that has passed since the proposed rule was published, FDA will not request that manufacturers initiate a recall. However, when the final rule is effective, batches of sterile neomycin sulfate packaged in 0.35-gram vials will no longer be certified or released, nor will the product be exempt from

certification except where subject to an approved application. With the withdrawal of approval of the applications, the product may not be legally shipped in interstate commerce.

III. Amendments to the Antibiotic Drug Regulations

Under 21 CFR Part 433.1 (a) and (b), antibiotic drugs are exempt from batch certification requirements if (1) the drug is approved for marketing under an appropriate antibiotic application or abbreviated antibiotic application, (2) the drug is packaged and labeled for dispensing in accordance with the applicable regulation or approved application, (3) the bulk drug used in preparing the antibiotic drug product meets the standards of identity, strength, quality, and purity specified in the applicable regulation or approved application, and (4) the antibiotic drug product meets the standards of identity, strength, quality, and purity specified in the applicable regulation or approved application.

The regulation applicable to sterile neomycin sulfate for parenteral use, § 444.42a, is being amended to delete (1) the provision in paragraph (a)(2) for the 0.35-gram package for dispensing, (2) the provision in paragraph (a)(3) for labeling of the drug packaged for dispensing, (3) the provision in paragraph (a)(4) describing samples required for certification of a batch packaged for dispensing, and (4) provisions under paragraphs (b)(1)(i)(*d*) and (b)(1)(ii) describing potency testing of the drug packaged for dispensing. With the deletion of these provisions, neomycin sulfate packaged in sterile vials for dispensing can neither be certified nor released. Except where other labeling and standards of identity, strength, quality, and purity have been approved in an applicable application, the product is not exempt from batch certification requirements.

As stated in the proposal (44 FR 44181), the revocation becomes effective 60 days after the date of publication of this final rule. At that time, batches of sterile neomycin sulfate packaged in 0.35-gram vials will no longer be certified, released, or exempt from certification, except for those products covered by approved antibiotic applications. Shipment in interstate commerce of sterile neomycin sulfate packaged for parenteral use that is not certified, released, or exempt from certification will be unlawful.

IV. Economic and Environmental Impact

The agency has determined under 21 CFR 25.24(c)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule does not require a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12291 does not apply to actions, such as this, at the stage where they are subject to opportunity for hearing under 5 U.S.C. 556 and 557. Furthermore, the Regulatory Flexibility Act does not apply to this proceeding because the proposed rule was issued before the effective date of that Act. Nevertheless, the agency has examined the economic impact of this final rule and has determined that this impact is insignificant. Because the product is not currently being marketed by any manufacturer, FDA believes no additional burdens are imposed. Therefore, the agency concludes that this final rule does not meet the criteria for a major rule as defined in Executive Order 12291, and that this final rule will not have a significant economic impact on small entities as defined by the Regulatory Flexibility Act.

V. Notice of Opportunity for a Hearing

Any person who will be adversely affected by the final rule amending the antibiotic regulations may file objections to it and request a hearing as provided in section 507(f) of the act (21 U.S.C. 357). Reasonable grounds for the hearing must be shown, as specified in 21 CFR 314.300. If hearings are granted both on objections to the final rule and on the proposed withdrawal of approval of the applications that is published elsewhere in this issue of the **Federal Register**, the hearings will be combined in a single proceeding conducted under 5 U.S.C. 556 and 557 and 21 CFR Part 12. Any person subject to this final rule who decides to seek a hearing shall file: (1) On or before May 16, 1988, a written notice of participation and request for hearing, and (2) on or before June 14, 1988, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.300. Any other interested person may also submit comments. The procedures and requirements governing this notice of opportunity for hearing, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in 21 CFR 314.300.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

All submissions under this order are to be filed in three copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 444

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 444 is amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. The authority citation for Part 444 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. Section 444.42a is amended by removing paragraph (a)(2); by redesignating existing paragraphs (a) (3) and (4) as paragraphs (a) (2) and (3), respectively, and by revising redesignated paragraphs (a)(2) and (a)(3), and paragraphs (b)(1)(i)(d), and (b)(1)(ii) (removing the undesignated paragraph following (b)(1)(ii)), to read as follows:

§ 444.42a Sterile neomycin sulfate.

(a) * * *

(2) *Labeling.* It is to be labeled in accordance with the requirements of § 432.5(b) of this chapter.

(3) *Request for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, moisture, pH, and identity.

(ii) Samples required;

(*a*) For all tests except sterility: 10 packages, each containing approximately 300 milligrams

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(*d*) *Preparation of sample.* Dissolve an accurately weighed sample in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with sufficient solution 3 to obtain a reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

* * * * *

(ii) *Plate assay using Staphylococcus aureus (ATCC 6538P).*[1] Proceed as directed in paragraph (b)(1)(i) of this section, except that the reference concentration of the sample under test is 10.0 micrograms of neomycin per milliliter; the concentrations of the standard curve solutions are 6.4, 8.0, 10.0, 12.5, 15.6 micrograms of neomycin per milliliter; and the suspension of the test organism, staphylococcus aureus (ATCC 6538P),[1] is adjusted so that a 1:19 dilution will give 25 percent light transmission and the usual inoculum for each 100 milliliters of agar for the seed layer is 0.2 milliliter of diluted suspension.

* * * * *

Dated: March 30, 1988.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 88-8192 Filed 4-14-88; 8:45 am]

BILLING CODE 4160-01-M

[1] Available from: American Type Culture Collection, 12301 Parklawn Dr., Rockville, MD 20852.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87D-0315]

Oligosaccharide Antibiotic Drugs; Neomycin Sulfate for Prescription Compounding; Opportunity for Hearing on Proposal To Withdraw Approval of Applications; Availability of Guideline Labeling

AGENCY: Food and Drug Administration.

ACTION: Notice of opportunity for hearing and availability of guideline labeling.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of guideline labeling for neomycin sulfate for compounding oral products (formerly neomycin sulfate for prescription compounding) and is also offering an opportunity for a hearing on the proposal to withdraw approval of antibiotic applications and abbreviated antibiotic applications for nonsterile neomycin sulfate products that are not labeled in accordance with the antibiotic regulations. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is revising the regulations to change the product name and to require package insert labeling that informs users of the product about the risks associated with neomycin sulfate and recommends the product for oral use only. These actions are being taken because nonsterile neomycin sulfate, a prescription drug with a recognized potential for producing toxicity, is now supplied for prescription compounding without adequate labeling. The drug is being used for indications for which it lacks evidence of effectiveness and for which there is clinical evidence of significant risk to the patient. FDA is offering an opportunity for a hearing on the proposal to withdraw approval of the applications under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)).

DATES: Guideline labeling available April 15, 1988. Supplements providing for package insert labeling to be submitted by June 14, 1988; notice of participation and request for hearing by May 16, 1988; data, information, and analyses to justify a hearing by June 14, 1988.

ADDRESSES: Written comments and requests for single copies of the guideline labeling, requests for hearing, and supporting data and information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

Requests for opinion of the applicability of this notice to a specific product to Division of Drug Labeling Compliance (HFN-310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drug Evaluation and Research (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION: In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the antibiotic drug regulations (specifically, 21 CFR 444.942a) that provide for the certification of nonsterile neomycin sulfate for prescription compounding. As described in the final rule, there are inadequate data to support the safety and efficacy of neomycin sulfate for use in irrigation solutions in the treatment of infected wounds and ulcers; for use on burns; for prophylactic local use before, during, or after surgical procedures, e.g., intraperitoneal suction-irrigation, fractures and joint replacement surgery, neurosurgery, and for other types of surgery and traumatic wounds; for rectal or colonic irrigation or as a retention enema; for intrapleural instillations; for use in wet dressings; for aerosol inhalation; for solutions to soak bone grafts, skin grafts, and silastic implants; and for any similar use under conditions where neomycin may be systemically absorbed in significant quantities. In addition to the lack of evidence of safety and efficacy of neomycin sulfate for these indications, there is evidence of significant drug toxicity for most of them.

FDA finds, however, that there is adequate safety and efficacy information to continue to allow marketing of nonsterile neomycin sulfate for compounding oral prescription products if full prescribing information is provided. Therefore, FDA is amending the antibiotic drug regulations to change the product name from "neomycin sulfate for prescription compounding" to "neomycin sulfate for compounding oral products" and to require labeling to provide information concerning appropriate uses and to warn about the risks associated with inappropriate use. The labeling will state that the product is recommended for oral use only. As discussed later, FDA is announcing the availability of guideline labeling for neomycin sulfate for compounding oral products under Docket No. 87D-0315.

However, amending the antibiotic regulations is not sufficient to accomplish the desired action. The drug products affected by this notice were being certified until the antibiotic drug regulations were amended to exempt antibiotic-containing drugs from batch certification requirements (47 FR 39155; September 7, 1982). Under the new regulations specifying the conditions of the exemption, an antibiotic drug must be packaged and labeled in accordance with the applicable regulations except where FDA has approved other labeling in an antibiotic application. Therefore, in addition to revising the applicable regulations, it is necessary to withdraw approval of antibiotic applications that provide for other labeling.

An antibiotic drug exempt from certification requirements under 21 CFR 433.1(b) is subject, following its approval, to section 505 of the act and applicable parts of the new drug regulations (21 CFR Parts 310 through 314 and 433.1(c)). This notice proposes to withdraw approval, under section 505(e) of the act, of the antibiotic applications and abbreviated antibiotic applications that are not supplemented, within 60 days of the effective date of the final rule, to provide for the new product name and package insert labeling. The agency has prepared guideline labeling that manufacturers and suppliers may adopt to ensure that their labeling complies with the requirements of the revised regulations.

The products known by FDA to be subject to this notice are:

1. No. 61-043, held by the Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001.
2. No. 61-085, held by Pfizer, Inc., 235 East 42nd St., New York, NY 10017.
3. No. 61-169, held by S. B. Penick and Co., 540 New York Ave., Lyndhurst, NJ 07071.
4. No. 61-579, held by Pharma-Tek, Inc., P.O. Box AB, Huntington, NY 11743.
5. No. 61-698, held by Elkins-Sinn, Inc., 2 Esterbrook Lane, Cherry Hill, NJ 08034.
6. No. 62-385, held by Paddock Laboratories, Inc., 3101 Louisiana Ave. North, Minneapolis, MN 55421.

On the basis of all the data and information available, the Center for Drug Evaluation and Research finds that nonsterile neomycin sulfate is unsafe for use except when named "Neomycin Sulfate for Compounding Oral Products" and used in accordance with appropriate package insert labeling.

Therefore, notice is given to the holders of the antibiotic applications listed above, and to all other interested

persons, that the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the act, withdrawing approval of the antibiotic applications and all amendments and supplements thereto, unless supplements providing for a change in the product name and addition of package insert labeling in accordance with 21 CFR 444.942a of the regulations are submitted by June 14, 1988. This notice is based on the ground that clinical or other experience, tests, or other scientific data show that such drug is unsafe for use under the conditions of use upon the basis of which the applications were approved. With the withdrawal of approval of the applications identified above, shipment in interstate commerce of nonsterile neomycin sulfate that is not certified, released, or exempt from certification will be unlawful.

In accordance with section 505 of the act and the regulations promulgated under this section (21 CFR Parts 310 and 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above (21 CFR 310.6) and that is not the subject of an antibiotic application are hereby given an opportunity for a hearing to show why approval of the application should not be withdrawn, and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products not the subject of an approved application. If requests for hearing are granted both on objections to the final rule published elsewhere in this issue of the **Federal Register** and on withdrawal of approval of the antibiotic applications, the hearings will be combined in a single proceeding under 21 CFR Part 12 and 5 U.S.C. 556 and 557.

In addition to the holders of the applications specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved antibiotic application, that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he or she manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address above).

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act (21 U.S.C. 321(p)), or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file: (1) on or before May 16, 1988, a written notice of participation and request for hearing, and (2) on or before June 14, 1988, the data, information, and analyses on which the person relies on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments. The procedures and requirements governing this notice of opportunity for hearing, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of a hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of participation and request for hearing, as required by 21 CFR 314.200, constitutes an election by the person not to make use of the opportunity for a hearing concerning the action and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product may not thereafter lawfully be marketed, and FDA will initiate appropriate regulatory action to remove such drug product from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request the hearing, making findings and conclusions and denying a hearing.

All submissions under this notice are to be filed in three copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

The guideline labeling is issued under § 10.90 (b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements, but are acceptable to the agency. A person who follows this guideline is assured that his or her conduct is acceptable to the agency. The agency advises that the labeling guideline for neomycin sulfate for compounding oral products complies with the prescription drug labeling regulations in §§ 201.56, 201.57, and 201.100 and can be relied upon by any person to meet these requirements. Under the provisions of § 314.70 (c) (21 CFR 314.70(c)), the guideline labeling may be used before approval of a supplement to a new drug application. A person may choose to use alternative labeling statements that are not provided in the guideline. If a person chooses to depart from the guideline, he or she may discuss the matter further with the agency to prevent expenditure of money and effort for labeling that the agency may later determine to be unacceptable.

Effective April 15, 1988, a person may adopt the labeling guideline to comply with labeling requirements for neomycin sulfate for compounding oral products. Interested persons may submit written comments on the guideline to the Dockets Management Branch (address above). Comments should be in three copies, identified with Docket No. 87D-0315. The guideline and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. If, as a result of comments received on the guideline labeling, FDA determines that the labeling should be revised, a notice will be published in the **Federal Register** announcing that such changes have been made.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355) and 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Center for Drug Evaluation and Research (21 CFR 5.70, 5.78, and 5.82).

Dated: March 30, 1988

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 88-8190 Filed 4-14-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 79N-0151]

Oligosaccharide Antibiotic Drugs; Sterile Neomycin Sulfate; Opportunity for Hearing on Proposal To Withdraw Approval of Applications

AGENCY: Food and Drug Administration.

ACTION: Notice of opportunity for hearing.

SUMMARY: The Food and Drug Administration (FDA) is offering an opportunity for a hearing on the proposal to withdraw approval of antibiotic applications and abbreviated antibiotic applications for neomycin sulfate in sterile vials for parenteral use. This action is being taken because the risks involved in the parenteral use of neomycin sulfate are judged to outweigh any benefits that might be derived from its continued availability. FDA is offering an opportunity for a hearing on the proposal under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)).

DATES: Comments, notice of participation, and request for hearing by May 16, 1988; data, information, and analyses to justify a hearing by June 14, 1988.

ADDRESSES: Written comments concerning requests for hearing, supporting data, and information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product to Division of Drug Labeling Compliance (HFN-310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drug Evaluation and Research (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION:

I. Background

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the antibiotic drug regulations to revoke the provisions for certification of neomycin sulfate in sterile vials for parenteral use. There is clinical evidence that parenterally administered neomycin sulfate can induce significant toxicity including ototoxicity (manifested as sensorineural hearing loss), nephrotoxicity, and neuromuscular blockade. In addition, there is evidence that the sterile vial of neomycin sulfate, which has been approved by FDA only for intramuscular administration in the treatment of certain urinary tract infections, is being used to prepare irrigation solutions. As concluded by the Drug Efficacy Study Implementation notice published February 29, 1972 (37 FR 4224), evidence of effectiveness is lacking for the use of sterile neomycin sulfate in the irrigation of wounds. Moreover, there is clinical evidence that such use poses a significant risk to the patient, as described in the proposed rulemaking published July 27, 1979 (44 FR 44180), and in another final rule published elsewhere in this issue of the **Federal Register** concerning neomycin sulfate for prescription compounding. Another reason is that, as concluded by FDA's Anti-Infective Agents Advisory Committee, use of this dosage form for the single remaining approved indication, the treatment of urinary tract infection, is no longer acceptable because of the availability of newer, safer antibiotics that are as effective as, or more effective than, parenteral neomycin sulfate and that do not present comparable risks.

However, amending the antibiotic regulations, as proposed in the July 27, 1979, notice, is no longer sufficient to remove existing approved products from the market. In the **Federal Register** of September 7, 1982 (47 FR 39155), FDA amended the antibiotic drug regulations to exempt antibiotic-containing drugs from batch certification requirements. Under the new regulations specifying the conditions of the exemption (21 CFR 433.1(b)), an antibiotic drug product is exempt from batch certification requirements if it is packaged and labeled for dispensing in accordance with, and meets the standards of identity, strength, quality, and purity specified in, the applicable regulation except where other labeling and standards have been approved in an applicable antibiotic application or abbreviated antibiotic application. Therefore, in addition to revising the applicable regulations, it is necessary to withdraw approval of applications for the products. An antibiotic drug exempt from certification requirements under 21 CFR 433.1(b) is subject, following its approval, to section 505 of the act and applicable parts of the new drug regulations (21 CFR Parts 310 through 314 and 433.1(c)). This notice proposes to withdraw approval under section 505(e) of the act of the antibiotic applications and abbreviated antibiotic applications for sterile neomycin sulfate.

The following products, although no longer marketed, are known by FDA to be affected by this notice:

1. Neomycin Sulfate for Injection, U.S.P., covered by application number 60-366, E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

2. Mycifradin Injectable, covered by application number 60-477, The Upjohn Co., Kalamazoo, MI 49001.

3. Neomycin Sulfate for Injection, U.S.P., covered by application number 61-084, Pfizer, Inc., 235 East 42nd St., New York, NY 10017.

4. Neomycin Sulfate for Injection, U.S.P., covered by application number 61-198, Elkins-Sinn, Inc., 2 Esterbrook Lane, Cherry Hill, NJ 08034.

On the basis of all the data and information available, the Director of the Center for Drug Evaluation and Research finds that neomycin sulfate in sterile vials is unsafe for parenteral use as provided for in its approved labeling.

Therefore, notice is given to the holders of the antibiotic applications listed above, and to all other interested persons, that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the act, withdrawing approval of the antibiotic applications and all amendments and supplements thereto, on the ground that clinical or other experience, tests, or other scientific data show that such drug is unsafe for use under the conditions of use upon the basis for which the applications were approved.

In accordance with section 505 of the act and the regulations promulgated under it (21 CFR Parts 310 and 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above (21 CFR 310.6) and not the subject of an antibiotic application are hereby given an opportunity for a hearing to show why approval of the application should not be withdrawn, and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products not the subject of an approved application. If hearings are granted both on objections to the final rule published elsewhere in this issue of the **Federal Register** and on the proposed withdrawal of approval of the applications, the hearings will be combined in a single proceeding conducted under 21 CFR Part 12 and 5 U.S.C. 556 and 557.

In addition to the holders of the applications specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved antibiotic application, that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he or she manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he or she manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (address above).

This notice of opportunity for hearing on the proposed withdrawal of approval of the applications encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act (21 U.S.C. 321(p)), or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file: (1) on or before May 16, 1988, a written notice of participation and request for hearing, and (2) on or before June 14, 1988, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments. The procedures and requirements governing this notice of opportunity for hearing, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of participation and request for hearing, as required by 21 CFR 314.200, constitutes an election by the person not to make use of the opportunity for a hearing concerning the action and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product may not thereafter lawfully be marketed, and FDA will initiate appropriate regulatory action to remove such drug product from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

All submissions under this notice are to be filed in three copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355) and 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Center for Drug Evaluation and Research (21 CFR 5.70, 5.78, and 5.82).

Dated: March 30, 1988.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 88–8191 Filed 4–14–88; 8:45 am]

BILLING CODE 4160-01-M

federal register

Friday
April 15, 1988

Part III

Department of Commerce

International Trade Administration

15 CFR Parts 370, 371, 373, 378, 379, 385, and 399

Exports of Commodities for Use in Certain Nuclear Activities in Certain Free World Countries; Final Rule

DEPARTMENT OF COMMERCE

15 CFR Parts 370, 371, 373, 378, 379, 385, and 399

[Docket No. 80214-8014]

Exports of Commodities for Use in Certain Nuclear Activities in Certain Free World Countries

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: To deter the proliferation of nuclear weapons and nuclear explosive capabilities, the Department of Commerce requires an individual validated export license for all dual-use goods and technologies that will be exported for use, either directly or indirectly, in any activities related to nuclear weapons, nuclear explosive devices, or the other nuclear processes described in § 378.3 of the Export Administration Regulations (15 CFR Parts 368 through 399). This final rule revises the licensing requirements for shipments to nuclear facilities involved in these activities and located in Canada or the countries listed in Supplement No. 2 to Part 373 of the Export Administration Regulations.

The countries in Supplement No. 2 to Part 373 and Canada are all close allies of the United States and have outstanding nuclear non-proliferation credentials.

Specifically, this final rule removes the prohibition against the use of general licenses, Distribution Licenses, Project Licenses, and Service Supply Licenses for shipments for ultimate consumption in these nuclear activities in facilities located in the countries listed in Supplement No. 2 to Part 373. In addition, this rule removes the requirement for an individual validated license for shipments for ultimate consumption in these nuclear activities in facilities located in Canada.

EFFECTIVE DATE: This rule is effective April 15, 1988.

FOR FURTHER INFORMATION CONTACT: John Black, Regulations Branch, Bureau of Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

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

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0625-0001, 0625-0002, 0625-0041, and 0625-0052.

3. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

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

5. This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to John Black, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 370, 371, 373, 378, 379, 385, and 399

Exports, Nuclear energy, Reporting and recordkeeping requirements.

Accordingly, Parts 370, 371, 373, 378, 379, 385, and 399 of the Export Administration Regulations are amended as follows:

1. The authority citation for 15 CFR Parts 370 and 378 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. The authority citation for 15 CFR Parts 371, 373, 379, 385, and 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 370—[AMENDED]

§ 370.3 [Amended]

3. In § 370.3, paragraph (a)(1)(ii) is removed and paragraphs (a)(1) (iii) through (vii) are redesignated as paragraphs (a)(1) (ii) through (vi).

PART 371—[AMENDED]

4. In § 371.2, paragraph (c)(7) is revised to read as set forth below, new footnotes 2 and 3 are added and former footnotes 2 through 13 to Part 371 are redesignated as footnotes 4 through 15.

§ 371.2 General provisions.

* * * * *

(c) *Prohibited shipments.* * * *

(7) The exporter knows, or has reason to know, that the commodity will be used in any destination except the countries listed in Supplement No. 2 to Part 373, either directly or indirectly in any of the following activities, whether or not the commodity is specifically designed or modified for such activities:

(i) Designing, developing, fabricating or testing nuclear weapons or nuclear explosive devices; [2] or

(ii) Designing, constructing, fabricating, or operating the following facilities, or components for such facilities[3]—

[2] Commodities specifically designed or specifically modified for use in designing, developing, or fabricating nuclear weapons or nuclear explosive devices are subject to export licensing or other requirements of the Office of Munitions Control, U.S. Department of State or the licensing or other restrictions specified in the Atomic Energy Act of 1954 as amended. Similarly, commodities and technical data specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions (except such items as are in normal commercial use for other purposes) are subject to the same requirements.

[3] Such activities may also require a specific authorization from the Secretary of Energy pursuant

Continued

(A) Facilities for the chemical processing of irradiated special nuclear or source material;

(B) Facilities for the production of heavy water;

(C) Facilities for the separation of isotopes of source and special nuclear material; or

(D) Facilities for the fabrication of nuclear reactor fuel containing plutonium.

§ 371.17 [Amended]

5. In § 371.17, paragraphs (e)(2)(iii) and (f)(1)(iv) are amended by adding the words "to any destination except the countries listed in Supplement No. 2 to Part 373" between the words "this general license" and "if" in each paragraph.

6. In § 371.22, paragraph (c)(2)(i) is revised to read as follows:

§ 371.22 General license GTE; temporary exports.

* * * * *

(c) *Exceptions.* * * *

(2) *Commodities.* * * *

(i) Commodities that will be used outside of the countries listed in Supplement No. 2 to Part 373 either directly or indirectly in any sensitive nuclear activity as described in § 378.3.

* * * * *

PART 373—[AMENDED]

§ 373.2 [Amended]

7. In § 373.2, paragraph (b)(3) is amended by adding the words "The project is located outside of the countries listed in Supplement No. 2 to Part 373 and" before the words "the commodities are" at the beginning of the paragraph.

8. Section 373.3 is amended by adding the words "outside of the countries listed in Supplement No. 2 to Part 373" between the words "will be used" and "in designing" in the first sentence of paragraph (g)(3)(viii) and by revising paragraph (b)(1)(i) to read as follows:

§ 373.3 Distribution license.

* * * * *

(b) *Ineligible or restricted commodities.* * * *

(1) * * *

(i) Commodities that will be used outside of the countries listed in Supplement No. 2 to Part 373 either directly or indirectly in any sensitive nuclear activity as described in § 378.3;

* * * * *

§ 373.7 [Amended]

9. Section 373.7 is amended by adding the words "that are located or for use outside of the countries listed in Supplement No. 2 to Part 373 and are" between the words "Parts to service commodities" and "related" in paragraph (b)(1) and between the words "Parts to service commodities" and "subject" in paragraph (b)(3).

Supplement No. 1 to Part 373 [Amended]

10. In Supplement No. 1 to Part 373, footnote 10 is amended by revising the words "ultimate consignees" to read "ultimate consignees that are located outside the countries listed in Supplement No. 2 to Part 373 and".

PART 378—[AMENDED]

§ 378.3 [Amended]

11. The introductory text of § 378.3 is amended by revising the words "any other commodity or technical data" to read "any other technical data not exportable under the provisions of General License GTDA (except "operation technical data" and "sales technical data" for export to and use in the countries listed in Supplement No. 2 to Part 373 or Canada) and a validated license is required for export to all destinations, except Canada and the countries listed in Supplement No. 2 to Part 373, of any other commodity".

PART 379—[AMENDED]

§ 379.4 [Amended]

12. In § 379.4, paragraph (c) introductory text is amended by revising the words "(including operating and maintenance instructional material)" to read "(other than operating and maintenance instructional material and "sales technical data" for export to and use in the countries listed in Supplement No. 2 to Part 373 and Canada)".

PART 385—[AMENDED]

§ 385.6 [Amended]

13. In § 385.6 the word "or" is added to the end of paragraph (a), paragraph (b) is removed, and paragraph (c) is redesignated as paragraph (b).

PART 399—[AMENDED]

Supplement No. 1 to § 399.1 [Amended]

14. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1565A, the *Nuclear Non-Proliferation Controls* paragraph (excluding the Notes) is revised to read as follows:

1565A Electronic computers, "related equipment," equipment or systems containing electronic computers; and specially designed components and accessories.

* * * * *

Nuclear Non-Proliferation Controls: See § 399.2, Interpretation No. 1.

Note: * * *

* * * * *

Supplement No. 1 to § 399.2 [Amended]

15. In Supplement No. 1 to § 399.2, Interpretation No. 1, the introductory text, paragraph (a) introductory text, and paragraph (b) are revised to read as follows:

Interpretation 1: Electronic Computers and Related Equipment (ECCN 1565A)

The following equipment is subject to nuclear non-proliferation controls:

(a) A validated license is required for nuclear non-proliferation reasons for all electronic computers intended for ultimate consignees located in any destinations outside of Canada or a country listed in Supplement No. 2 to Part 373 and engaged directly or indirectly in any of the following activities:

* * * * *

(b) Advanced electronic computers *except:*

(1) Electronic computers having a total processing data rate of 1000 million bits per second or less are not subject to nuclear non proliferation controls for destinations listed in Supplement No. 2 to Part 373 of the Export Administration Regulations or Canada.

(2) Electronic computers having a total processing data rate of 1000 million bits per second or less are not subject to nuclear non-proliferation controls for destinations listed in Supplement No. 8 to Part 373 of the Export Administration Regulations unless the activities cited in (a) above are involved.

(3) Electronic computers having a total processing data rate of 250 million bits per second or less not subject to nuclear non-proliferation controls for destinations listed in Supplement No. 3 to Part 373 of the Export Administration Regulations unless the activities cited in (a) above are involved.

(4) Electronic computers having a floating point processing data rate of 20 million bits per second or less are not subject to nuclear non-proliferation controls for destinations not listed in Supplement Nos. 2 or 3 to Part 373 of the Export Administration Regulations unless the activities cited in (a) above are involved.

Dated: April 13, 1988.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 88-8416 Filed 4-14-88; 9:11 am]

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to section 57.b.(2) of the Atomic Energy Act of 1954 as amended, as implemented by regulations of the Department of Energy published in 10 CFR Part 810.

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H.J. Res. 513/Pub. L. 100-289

To designate April 6, 1988, as "National Student-Athlete Day." (Apr. 12, 1988; 102 Stat. 89; 1 page) Price: $1.00

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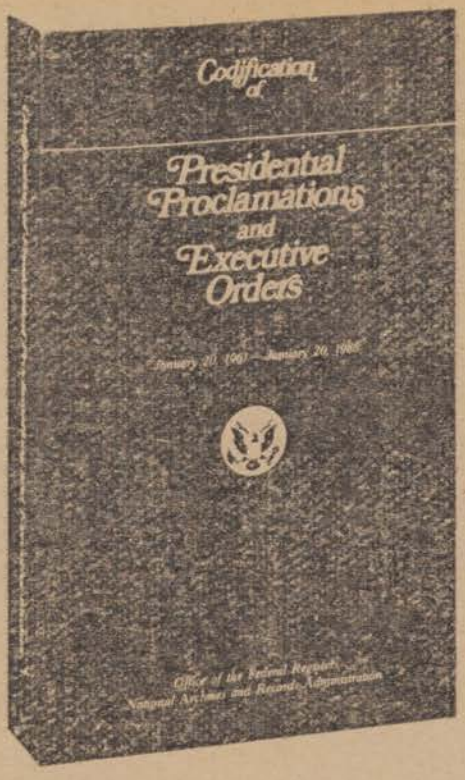

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