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Tuesday
November 1, 1988

Briefing on How To Use the Federal Register—
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
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4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: November 4; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

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Presidential Documents

Title 3—

The President

Memorandum of October 26, 1988

Interim Directive Regarding Disposition of Certain Mergers, Acquisitions, and Takeovers

Memorandum for the Secretary of the Treasury

By virtue of the authority vested in me by the Constitution and statutes of the United States, including without limitation Section 301 of Title 3 of the United States Code, the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*), and the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, August 23, 1988) (the "Act"), it is ordered as follows:

Pending the issuance of an Executive order to implement the Act, the Secretary of the Treasury is hereby designated and empowered to perform the following-described functions of the President: The authority vested in the President by Section 721 of the Defense Production Act of 1950, as amended, relative to mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of the Act by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States.

The Secretary of the Treasury shall consult with the Committee on Foreign Investment in the United States, established pursuant to Executive Order No. 11858 and chaired by the representative of the Secretary of the Treasury, to take such actions or make such recommendations as requested by the Secretary of the Treasury.

The delegation provided herein shall terminate, and this interim directive shall be without any further effect, except as may be provided in the Executive order implementing the Act, upon the effective date of such order.

This interim directive shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, October 26, 1988.

[FR Doc. 88–25343
Filed 10–28–88; 1:20 pm]
Billing code 4810–25–M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 760

Dairy Indemnity Payment Programs

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to amend the Dairy Indemnity Payment Program regulations to extend the operation of the program through September 30, 1990. This regulation is being promulgated as an interim rule because of an immediate need to reimburse dairy farmers as the result of aflatoxin contamination in milk and dairy cattle in Texas.

DATES: This regulation shall become effective November 1, 1988. Comments must be received by January 3, 1989.

ADDRESSES: Comments concerning this interim regulation should be addressed to: Director, Emergency Operations and Livestock Program Division, ASCS, USDA, South Building, room 4095, Washington, DC 20013. All comments will be available for public inspection, in Room 4095, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Susan Schneider, Agricultural Program Specialist, Emergency Operations and Livestock Programs Division, ASCS, USDA, Washington, DC 20013; Telephone (202) 447–5171.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 760) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0560–0116.

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which this rule applies are: Title: Dairy Indemnity Payments; Number: 10.053, as found in the Catalog of Federal Domestic Assistance.

Milton Hertz, Administrator, ASCS, certifies that this action will not increase federal paperwork burden for industry, small business, and other persons and will not have a significant economic impact or a substantive burden on small entities. Therefore the action is exempt from the provisions of the Regulatory Flexibility Act. Additionally, the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The Dairy Indemnity Payment Program was originally authorized by section 331 of the Economic Opportunity Act of 1964 (78 Stat. 508). The statutory authority for the program has been extended several times, most recently by section 152 of the Food Security Act of 1985 (99 Stat. 1337) (the 85 Act) which authorized the program to be carried out through September 30, 1990. The objective of the program is to indemnify dairy farmers and manufacturers of dairy products who, through no fault of their own, suffer income losses with respect to milk or milk products which are removed from commercial markets because such milk or milk products contain certain harmful residues. In addition, dairy farmers can be indemnified for income losses with respect to milk which is required to be removed from commercial markets due to residues of chemicals or toxic substances or contamination by nuclear radiation or fallout.

The 85 Act made no substantive changes with respect to the Dairy Indemnity Payment Program but merely extended the time period for conducting the program through September 30, 1990. The regulations governing the program (7 CFR Part 760) currently authorize the operation of the program through January 31, 1988. Accordingly, it is necessary to amend § 760.2 of these regulations to make them effective through September 30, 1990.

This regulation is being promulgated as an interim rule because of an immediate need to reimburse dairy farmers as the result of aflatoxin contamination in milk and dairy cattle in Texas. This rule does not make any substantive changes in the program but merely extends the time period for conducting the program to conform with the 85 Act. A 60-day comment period is being provided to allow interested persons an opportunity to comment on the provisions of this interim rule. A final rule will be issued together with any changes which are necessary as a result of the comments received on the provisions of the interim rule.

List of Subjects in 7 CFR Part 760

Dairy producers, Indemnity payments, Pesticides, Pests.

Interim Rule

Accordingly, the regulations at 7 CFR Part 760 are amended as follows:

PART 760—[AMENDED]

1. The authority citation for 7 CFR Part 760 continues to read:

Authority: 7 U.S.C. 450j, k, and l.

§ 760.2 [Amended]

2. In § 760.2, paragraphs (k) (1) and (2), (l), and (o) are amended by striking out "January 31, 1988" and inserting in lieu thereof "September 30, 1990".

Signed at Washington, DC, on October 26, 1988.

Vern Neppl,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88-25171 Filed 10-31-88; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 636, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action increases the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 23 through October 29, 1988, from 264,000 cartons to 289,000 cartons. 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 636, Amendment 1 (§ 910.936) is effective for the period October 23 through October 29, 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 (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 1988-89. The committee conducted a telephone poll on October 24, 1988, and, upon considering the current and prospective conditions of supply and demand, unanimously recommended that the quantity of lemons deemed advisable to be handled during the specified week be increased from 264,000 cartons to 289,000 cartons. The committee reports that the demand for lemons has improved beyond what was anticipated by the committee on October 19, 1988, when the 264,000 carton recommendation was made.

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. 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 910.936 is revised to read as follows:

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

§ 910.936 Lemon Regulation 636, Amendment 1.

The quantity of lemons grown in California and Arizona which may be handled during the period October 23, 1988 through October 29, 1988, is established at 289,000 cartons.

Dated: October 27, 1988.

Eric M. Forman,

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

[FR Doc. 88-25261 Filed 10-31-88; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 80876-8176]

15 CFR Part 775

Documentation Requirements: Grace Period for Requiring a Consignee/Purchaser Statement, International Import Certificate, and Indian Import Certificate

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Office of Export Licensing (OEL) requires a Form ITA-629P, Statement by Ultimate Consignee and Purchaser, an International Import Certificate, or an Indian Import Certificate in support of certain individual export license applications (and reexport authorization requests). The consignee/purchaser statement, International Import Certificate, and Indian Import Certificate assure that foreign consignees and purchasers are aware of their responsibilities for the representations they make to OEL and for the disposition of U.S. origin goods.

A "special license" is an authorization for making multiple exports of a commodity(ies) under a single license. A Form ITA-6052P is required with most applications for special license in lieu of the forms filed with individual validated licenses. Form ITA-6052P provides the assurances normally obtained on the Form ITA-629P, the International Import Certificate, or the Indian Import Certificate.

This rule amends the Export Administration Regulations by requiring exporters to file a consignee/purchaser statement, International Import Certificate, or Indian Import Certificate with license applications for commodities removed from eligibility for

a special license. It also provides for a 45 day grace period before the new documentation requirement becomes effective for those exporters that were actually exporting the commodity under a special license. This grace period allows U.S. exporters, and foreign consignees and purchasers, time to adjust to the different documentation requirements.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Regulations Branch, Telephone: (202) 377–2440.

SUPPLEMENTARY INFORMATION:

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 the Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared

2. Section 13(a) of the Export Administration Act of 1979, as amended (Act) (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. This rule is not subject to section 13(b) of the Act 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 comments be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

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

4. This rule involves a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0021.

5. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects in 15 CFR Part 775

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 775 of the Export Administration Regulations (15 CFR Parts 768–799) is amended as follows:

The authority citation for 15 CFR Part 735 continues to read as follows:

1. 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. Paragraph (b) of § 775.9 is revised to read as follows:

§ 775.9 Special Provisions.

* * * * *

(b) *Grace period.*—(1) *Consignee/purchaser statement.* Whenever the requirement for a consignee/purchaser statement for any commodity is imposed or extended by virtue of one of the following—

(i) The addition of a country group(s) to the paragraph in any entry on the Commodity Control List titled "Validated License Required"; or

(ii) The replacement of the Code letter "A" following the Export Control Commodity Number with another code letter; or

(iii) The removal of a commodity from eligibility for export under a special license described in Part 773, when the exporter holds such as special license and has been exporting the commodity under that special license;

The application for license need not conform to the requirements of § 775.2 for a period of 45 days after the date that the commodity becomes subject to the new requirement. In lieu thereof, applications filed during the 45 day grace period shall be accompanied by any evidence available to the applicant that will support his representations concerning the ultimate consignee, ultimate destination, and end use, such as copies of the order, letters of credit, correspondence between the exporter and ultimate consignee, or other documents received from the ultimate consignee.

(2) *International Import Certificate and the Indian Import Certificate.* Whenever the requirement for an International Import Certificate or an Indian Import Certificate for any commodity is imposed or extended by virtue of one of the following—

(i) The replacement of the code letter following the Export Control Commodity Number with the code letter "A" (in the case of India, this applies also to replacing the code letter with the code letter "B", where the commodity is controlled for national security reasons); or

(ii) The removal of a commodity identified by the code letter "A" from eligibility for export under a special license described in Part 773, when the exporter holds such a special license and had been exporting the commodity under that special license. (In the case of India, this applies also to a commodity identified by the code letter "B" and controlled for national security purposes);

The application for license need not conform to the requirements of § 775.3 or 775.7, as appropriate, for a period of 45 days after the date that the commodity becomes subject to the new requirement.

(3) *Swiss Blue Import Certificates, Yugoslav End-Use Certificates or People's Republic of China End-User Certificates.* Whenever the submission requirement for a Swiss Blue Import Certificate, a Yugoslav End-Use Certificate, or a People's Republic of China End-User Certificate is imposed or extended to any commodity on the Commodity Control List by the addition of Country Group V to the "Validated License Required" paragraph in the applicable entry on the Commodity Control List, a license application to export such commodity need not conform to the submission requirement for 45 days from the date such commodity becomes subject to the requirement.

* * * * *

Dated: October 11, 1988.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 25199 Filed 10–31–88; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 260, 284, 385 and 388

[Docket No. RM87-17-000]

Natural Gas Data Collection System; Availability of Revised Record Formats for FERC Form Nos. 2 and 2A

October 26, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of availability of revised record formats for FERC form Nos. 2 and 2A.

SUMMARY: This notice provides that, on October 26, 1988, the Commission issued revised record formats for submitting FERC Form Nos. 2 and 2A on an electronic medium. These formats have been revised in accordance with certain recommendations presented at the implementation conference for Order No. 493 (53 FR 15023 (Apr. 27, 1988)) on September 12 and 13, 1988. The revisions also incorporate changes resulting from FERC Order No. 505, issued October 13, 1988 (53 FR 40875 (Oct. 19, 1988)).

DATE: The revised formats are available as of October 26, 1988.

FOR FURTHER INFORMATION CONTACT: Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8995 or (202) 357-8844.

SUPPLEMENTARY INFORMATION: Order No. 493-A, issued August 1, 1988 (53 FR 30027 (Aug. 10, 1988)) revised the record formats for FERC Form Nos. 2 and 2A, in response to comments filed on Order No. 493. At the implementation conference on Order Nos. 493 and 493-A, held on September 12 and 13, 1988, commenters recommended a simplified procedure for identifying footnotes on an electronic medium. In its response to issues presented at the implementation conference, issued October 7, 1988, staff agreed to revise the footnote procedure by including a footnote ID field in each record format. Staff also indicated that it would review all written comments submitted at the conference and make the needed revisions to FERC Form Nos. 2 and 2A. These revisions are identified in Appendix A.

On October 13, 1988, the Commission issued Order No. 505, which replaced the "Statement of Changes in Financial Position" in certain FERC annual report forms, including FERC Form Nos. 2 and 2A, with a "Statement of Cash Flows." The change complies with the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 95 (SFAS No. 95). The record formats for FERC Form Nos. 2 and 2A have been revised in accordance with Order No. 505 and SFAS No. 95.

The Commission provides all interested persons an opportunity to inspect or copy the contents of this document and the complete text of the revised record formats during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426.

Due to the size of the record format files for FERC Form Nos. 2 and 2A, these record formats will not be available through the Commission Issuance Posting System (CIPS), the Commission's electronic bulletin board service. However, revised record formats for FERC Form Nos. 2 and 2A on diskette in ASCII file format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Software to print FERC Form Nos. 2 and 2A was scheduled to be available by October 30, 1988. The revisions to these record formats will delay availability of this software until November 30, 1988.

Lois D. Cashell,
Secretary.

Appendix A—Corrections to Record Formats for FERC Nos. 2 and 2A

This appendix identifies the corrections and revisions to FERC Form Nos. 2 and 2A resulting from recommendations at the Order No. 493 implementation conference and FERC Order No. 505 (53 FR 40875 (Oct. 19, 1988)).

I. FERC Form No. 2

A. General Corrections

The item location number (General Instruction No. 4), and reference number (General Instruction No. 5) have been deleted.

The general instructions for footnotes have been revised. The prior General Instruction No. 8 is now No. 5. General Instruction No. 6, pertaining to footnotes, is new.

A Footnote ID (with four character positions) has been added to each non-text record. The Footnote ID may be blank-filled if no footnote applies.

The attached tables of character position changes designate certain items as (new). Check the formats for additional information or instructions under the "Comments" column for each record.

Some records have a (−) sign associated with certain items to indicate that the response should be entered as a negative number.

B. Exhibit B

The first sentence in Submission Procedure No. 1 (referencing volume and file labels) has been deleted.

Character fields may be enclosed by double or single quotes, as well as vertical bars.

Recording of "NA" can now be accomplished by double or single quotes, as well as vertical bars.

C. Exhibit D

Specific Instruction No. 16(f) is new.

D. Schedule F4

Record Nos. 24 and 25 (Statement of Changes in Financial Position) have been replaced by three new records designated Record Nos. 24–26. The three new records are for the Statement of Cash Flows, Parts 1–3.

The Notes to Financial Statements, formerly Record No. 26 is now assigned Record Number 27. Additional changes to Schedule F4 are as follows:

Schedule/Record	Item	New character positions/comments
F4/6	Title of Officer	56–105.
F4/6	Salary for Year	106–112.
F4/7	Title of Director	56–105.
F4/7	Principal Business Address	106–165.

Schedule/Record	Item	New character positions/comments
F4/7	Item No. 26a (New): Director Meetings	166–168.
F4/7	Item No. 26b (New): Fees During Year	169–175.
F4/19	Item No. 169a (New): Other Item Specified	217–241.
F4/20	Utility Plant Reported	12.
F4/20	Net Utility Operation Income	13–24.
F4/20	Item Nos. 171–185	Increase each char. pos. by 13.
F4/20	Item No. 185a (New): Other Item Specified	205–229.
F4/21	Utility Plant Reported (New)	12.
F4/21	Item Nos. 186–194	Increase each char. pos. by 1.
F4/21	Item No. 194a (New): Other Item Specified	121–145.
F4/22	Utility Plant Reported (New)	12.
F4/22	Item Nos. 195–210	Increase each char. pos. by 1.
F4/22	Item No. 210a (New): Other Item Specified	205–229.

E. Schedule F5

Schedule/Record	Item	New character positions/Comments
F5/1	Item No. 277a (New): Other Item Specified	168–192.
F5/2	Item No. 291a (New): Other Item Specified	180–204.
F5/22	Security Owned	18–82.
F5/22	Item Nos. 478b–478c	Increase each char. pos. by 35.
F5/22	Item No. 478d	95–147.
F5/22	Item Nos. 479–485	Increase each char. pos. by 5.
F5/23	Item No. 486	12–82: This item now requries both the name of the security owned and the name of issuer.
F5/23	Item No. 486a	Deleted.
F5/23	Item Nos. 487–488	Decrease each char. pos. by 61.
F5/23	Item No. 488a (New): Additional description of investment	95–147.
F5/23	Item Nos. 489–493	Decrease each char. pos. by 8.
F5/23	Item No. 493a (New): Total Cost Acct. 123.1	208–219.
F5/24	Item No. 504: "variou" may now be entered for "Make-up Period Expiration Date"	199–204.
F5/32	Item No. 555: Item revised from "Acct. No. Debited" to "Acct. No. Credited"	172–178.
F5/32	Item No. 557: Item revised from "Acct. No. Credited" to "Acct. No. Debited"	191–197.
F5/32	Item No. 559a (New): Other Item Specified	222–246.
F5/33	Stock Code (New)	11.
F5/33	Item Nos. 559a–568	Increase each char. pos. by 1.
F5/39	Grand Total, Code=3 added to "Information Reported Code"	11.
F5/40	Information Reported Code (New)	11.
F5/40	Account Number (New)	12–18.
F5/40	Long Term Debt Code	19.
F5/40	Item Nos. 593a–601	Increase each char. pos. by 8.
F5/43	Reconciling Type (New)	11.
F5/43	Text	12–143.
F5/44	Grand Total, Code=3 added to "Information Reported Code"	11.
F5/46	Item No. 627a (New): Other Percent	56–58.
F5/47	Account Subdivision Code	11–12.
F5/47	Percentage Reported Code	13–14.
F5/47	Item Nos. 630–636	Decrease each char. pos. by 2.
F5/47	Average Period of Allocation to Income	89–106.
F5/47	Item No. 638 (New): Other Percent	107–109.
F5/47	Item No. 638a (New): Other Item Specified	110–134.
F5/49	Item No. 644: Item revised from "Debit Contra Account" to "Credit to Contra Account"	156–162.
F5/50	Item No. 654 is old Item No. 655	125–136.
F5/50	Item No. 655 is old Item No. 654	137–143.
F5/50	Item No. 655 is old Item No. 654	137–143.
F5/51	Grand Total, Code=13 added to "Account Sub-divison Code"	11–12.
F5/51	Item No. 663 is old Item No. 665	73–79.
F5/51	Item No. 665 is old Item No. 663	92–98.
F5/51	Item No. 667a (New): Other Item Specified	123–147.
F5/52	Item No. 674 is old Item No. 676	73–79.
F5/52	Item No. 676 is old Item No. 674	92–98.
F5/52	Item No. 678a (New): Narrative Descriptor of Item Reported	123–222.
F5/52	Item No. 678b (New): Other Item Specified	223–247.

Schedule/Record	Item	New character positions/Comments
F5/53	Item No. 685 is old Item No. 687	73–79.
F5/53	Item No. 687 is old Item No. 685	92–98.
F5/53	Item No. 690 (New): Narrative Descriptor of Item Reported	123–222.
F5/53	Item No. 690a (New): Other Item Specified	223–247.

F. Schedule F6

Schedule F6, Recorded No. 3—Gas Operating Revenues (Account 400)—Part 3, is a new record. The records have been renumbered accordingly. Record numbers in the table below refer to the new record number. Additional changes are:

Schedule/Record	Item	New character positions/Comments
F6/2	Item Nos. 715–720 have been moved from Record 02 to new Record 03	
F6/6	Item No. 753a (New): Other Item Specified	168–192.
F6/7	Average Revenue per Mcf	130–136.
F6/7	Sum of Mthly Billing Demands	137–148.
F6/7	Item Nos. 760b–760d	Decrease each char. pos. by 1.
F6/7	Item No. 760e (New): Other Item Specified	179–203.
F6/8	Item No. 760g (New): Other Item Specified	55–79.
F6/11	Processor Description	11–142.
F6/11	Respondent's Gas Processed	143–154.
F6/11	Revenue	155–166.
F6/36	Item 1054a (New): Other Item Specified	73–95.
F6/38	Receipt Point Designation	44–83.
F6/38	Item Nos. 1058d–1058e	Increase each char. pos. by 20.
F6/38	Delivery Point Designation	116–155.
F6/38	Item Nos. 1058g–1063	Increase each char. pos. by 40.

G. Schedule F7

The previous Record No. 1—Regulatory Commission Expenses, is now broken down into two records (Part 1 and Part 2). The records have been renumbered accordingly. Record numbers in the table below refer to the new record number.

Schedule/Record	Item	New character positions/Comments
F7/17	Item No. 1251: Fuel or Power	Delete.
F7/17	Item No. 1251a (New): Gas Fuel Cost	162–173.
F7/17	Item No. 1251b (New): Electric Fuel Cost	174–185.
F7/17	Other	186–197.
F7/17	Gas for Compressor Fuel	198–202.
F7/17	Item Nos. 1254–1256	Increase each char. pos. by 5.
F7/19	Information Reported Code	Revised codes.
F7/19	State (New)	12–13.
F7/19	Item Nos. 1267–1268	Increase each char. pos. by 2.
F7/24	Ownership Type (New)	12.
F7/24	Operation Type (New)	13.
F7/24	Item Nos. 1324–1325	Increase each char. pos. by 2.
F7/27	Item Nos. 1350c, 1351a, and 1352a	Delete.
F7/27	Deliveries to Others	153–164.
F7/27	Total Peak Month Deliveries	165–176.
F7/32	Reference Number	Delete.
F7/32	Footnote ID (New)	11–14.
F7/32	Footnote Text	15–146.

II. FERC Form No. 2A

A. General Corrections

General Instruction No. 1 has been revised to reflect new substitute record numbers.

The item location number (General Instruction No. 5), and reference number (General Instruction No. 6) have been deleted.

The general instructions for footnotes have been revised. The prior General Instruction No. 8 is now No. 5. General Instruction No. 6, pertaining to footnotes, is new.

A Footnote ID (with four character positions) has been added to each non-text record. The Footnote ID may be blank-filled if no footnote applies.

B. Exhibit B

The first sentence in Submission Procedure No. 1 (referencing volume and file labels) has been deleted.

Character fields may be enclosed by double or single quotes, as well as vertical bars.

Recording of "NA" can now be accomplished by double or single quotes, as well as vertical bars.

C. Exhibit D

Specific Instruction Nos. 3 and 15 have been revised.

D. Schedule F8

Record Nos. 12 and 13 (Statement of Changes in Financial Position) have been replaced by new record designated Record Nos. 12–14 (Statement of Cash Flows—Parts 1–3). The records have been renumbered.

Gas Plant in Service (Accounts 101, 102, 103, and 106)—Parts 7 & 8: Records Nos. 46 & 47 have been combined into a single record number 47. The records have been renumbered. Additional changes are as follows:

Schedule/record	Item	New character positions/comments
F8/2	Item No. 15: Address of Officer	New char. pos. 171–228.
F8/2	Item No. 16: Incorporation State	New char. pos. 229–243.
F8/11	Contra Primary Account Affected	Delete.
F8/11	Item Nos. 135–145	Decrease each char. pos. by 7.
F8/16	Utility Department	"Other" code now specified in new Item 186a.
F8/16	Item No. 186a (New): Other Item Specified	72–96.
F8/36	Item No. 401a (New): Other Item Specified	217–241.
F8/37	Item No. 402: Net Utility Operating Income	Moved from old Record 35 to new Rec. 37, char. pos. 13–24.
F8/37	Item Nos. 403–417	Increase each char. pos. by 13 to allow for addition of Item 402.
F8/38	Utility Plant Reported (New)	12
F8/38	Item Nos. 418–426	Increase each char. pos. by 1.
F8/38	Item 426a (New): Other Item Specified	121–145.
F8/39	Utility Plant Reported (New)	12
F8/39	Item Nos. 427–442	Increase each char. pos. by 1.
F8/39	Item No. 442a (New): Other Item Specified	205–229.
F8/51	Note 12 has been revised.	
F8/51	Item Nos. 618–623	Moved to new Rec. 52.
F8/72	Item No. 860a (New): Special Construction Employees	36–41.
F8/72	Item No. 860b (New): Equivalent Employees	42–47.
F8/72	Note 13 (New)	
F8/77		All items renumbered.
F8/77	Average Revenue/Mcf	130–136
F8/77	Sum of Monthly Billing Demands	137–148.
F8/77	Item No. 934–936	Decrease each char. pos. by 1.
F8/77	Item No. 937 (New): Other Item Specified	179–203.
F8/79–80		Items/Notes renumbered.

[FR Doc. 25164 Filed 10–31–88; 8:45 am]
BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM80–53]

Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of November, December, 1988 and January 1989. Section 101(b)(6) of the NGPA rquires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Richard P. O'Neill, Director, OPPR, (202) 357–8500.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Issued October 26, 1988.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any 6 month for which such figures apply.

Pursuant to this requirement and § 375.307(c)(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November, December 1988 and January 1989 are issued by the publication of the price tables for the

applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1), 105(b)(3), 106(6)(1)(B), 107(c)(5), 108, and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to November, 1988 are found in the Table in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Richard P. O'Neill,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982).

§ 271.101 [Amended]

2. Section 271.101(a) is amended by adding the maximum lawful prices for November, December 1988 and January, 1989 in Tables I and II.

TABLE I—NATURAL GAS CEILING PRICES

[Other than NGPA §§ 104 and 106(a)]

Subpart of part 271	NGPA section	Maximum lawful price per MMBtu for deliveries in—			
		Category of gas	Nov. 1988	Dec. 1988	Jan. 1989
B	102	New Natural Gas, Certain OCS Gas[1].	$5.058	$5.093	$5.128
C	103(b)(1)	New Onshore Production Wells [2]	3.345	3.358	3.371
E	105(b)(3)	Intrastate Existing Contracts	4.879	4.909	4.939
F	106(b)1(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas[3].	1.913	1.920	1.927
G	107(c)(5)	Gas Produced from Tight Formations.	6.690	6.716	6.742
H	108	Stripper Gas	5.416	5.453	5.491
I	109	Not Otherwise [4] Covered	2.771	2.781	2.791

[1] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) was deregulated. (See Part 272 of the Commission's regulations.)

[2] Commencing January 1, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 was deregulated. (See Part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

[3] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas was deregulated. (See Part 272 of the Commission's regulations.)

[4] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

TABLE II—NATURAL GAS CEILING PRICES: NGPA §§ 104 AND 106(A) (SUBPART D, PART 271)

Category of natural gas	Type of sale or contract	Maximum lawful price per MMBtu for deliveries made in—		
		Nov. 1988	Dec. 1988	Jan. 1989
Post-1974 gas	All producers	$2.771	$2.781	$2.791
1973–1974 Biennium gas	Small producer	2.339	2.348	2.357
	Large producer	1.790	1.797	1.804
Interstate Rollover gas	All producers	1.028	1.032	1.036
Replacement contract gas or recompletion gas	Small producer	1.315	1.320	1.325
	Large producer	1.007	1.011	1.015
Flowing gas	Small producer	0.664	0.666	0.668
	Large producer	0.561	0.563	0.565
Certain Permian Basin gas	Small producer	0.784	0.787	0.790
	Large producer	0.691	0.694	0.697
Certain Rocky Mountain gas	Small producer	0.784	0.787	0.790
	Large producer	0.664	0.666	0.668
Certain Appalachian Basin gas	North subarea contracts dated after 10–7–69.	0.630	0.632	0.634
	Other contracts	0.585	0.587	0.589
Minimum rate gas [1]	All producers	0.347	0.348	0.349

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

[2] This price may also be applicable to other categories of gas (see §§ 271.402 and 271.602).

§ 271.102 [Amended]

3. Section 271.102(c) is amended by adding the inflation adjustment for the months of November, December 1988, and January, 1989.

TABLE III—INFLATION ADJUSTMENT

Month of delivery 1988 and 1989	Factor by which price in preceding month is multiplied
Nov	1.00375
Dec	1.00375
Jan	1.00375

[FR Doc. 88-25238 Filed 10-31-88; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 77F-0277]

Indirect Food Additives: Polymers; Technical Amendments

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is correcting an error in § 177.1310 (21 CFR 177.1310) of the food additive regulations regarding the cross-reference to analytical methods for ethylene-acrylic acid copolymers. This final rule also corrects two typographical errors that appear in § 177.1330(c).

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA is correcting the food additive regulations in § 177.1310(b) (21 CFR 177.1310(b)) regarding the cross-reference to the analytical methods in § 177.1330 *Ionomeric resins* (21 CFR 177.1330), required for ethylene-acrylic acid copolymers. The regulation for ethylene-acrylic acid copolymers, published in the **Federal Register** of April 7, 1967 (32 FR 5675), required that certain net acidified chloroform-soluble extractives be determined by the analytical methods presented in § 121.2582(c) (recodified as § 177.1330(c)). In the **Federal Register** of April 4, 1980 (45 FR 22915), FDA revised § 177.1330 to provide for the safe use of methacrylic acid polymer with ethylene and isobutyl acrylate, sodium and zinc salts, as articles or components of articles intended for contact with food. In that document, FDA removed the analytical methods from § 177.1330(c) and included them in § 177.1330(e). The agency also included the analytical methodology for the newly listed copolymer in § 177.1330(e). In making these changes, FDA inadvertently did not amend § 177.1310(b) to reference the applicable analytical methods now listed in § 177.1330(e).

This document amends § 177.1310(b) by changing the reference to "§ 177.1330(c)" to read "§ 177.1330(e)." It also specifies the analytical methods listed in § 177.1330(e) that are applicable to § 177.1310(b). In addition, this document makes two corrections of typographical errors that appear in § 177.1330(c). The changes made by this document are nonsubstantive.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

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

2. Section 177.1310 is amended by revising paragraph (b) to read as follows:

§ 177.1310 Ethylene-acrylic acid copolymers.

* * * * *

(b) The finished food-contact articles made with no more than 10 percent total polymer units derived from acrylic acid, when extracted with the solvent or solvents characterizing the type of food and under the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yield net acidified chloroform-soluble extractives not to exceed 0.5 milligram per square inch of food-contact surface when tested by the methods prescribed in § 177.1330(e)(1), (3)(i) through (iv), (4), (5), and (6), except that

(1) The total residue method using 3 percent acetic acid, as prescribed in § 177.1330(e)(6)(i)(*a*), does not apply, and

(2) The net acidified chloroform-soluble extractives from paper and paperboard complying with § 176.170 of this chapter may be corrected for wax, petrolatum, and mineral oil as provided in § 176.170(d)(5)(iii)(*b*) of this chapter.

If the finished food-contact article is itself the subject of a regulation in Parts 174, 175, 176, 177, 178, and § 179.45 of this chapter, it shall also comply with any specifications and limitations prescribed for it by that regulation.

* * * * *

§ 177.1330 [Amended]

3. Section 177.1330 *Ionomeric resins* is amended in paragraph (c) by revising "chapter. yields" to read "chapter, yields" and "(l)(1)" to read "(e)(1)".

Dated: October 7, 1988.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-25237 Filed 10-31-88; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin, Virginiamycin, and Roxarsone

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by SmithKline Animal Health Products, providing for use of previously approved salinomycin, virginiamycin, and roxarsone Type A medicated articles to make Type C medicated feeds for broiler chickens. The feeds are used for the prevention of coccidiosis and for improved feed efficiency.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: SmithKline Animal Health Products, Division of SmithKline Beckman Corp., 1600 Paoli Pike, West Chester, PA 19380, filed NADA 138-953 providing for combining the separately approved salinomycin, virginiamycin, and roxarsone Type A medicated articles to make Type C medicated feeds for broiler chickens. The feeds contain: Salinomycin sodium 40 to 60 grams per ton, virginiamycin 5 grams per ton, and roxarsone 45.4 grams per ton. The feeds are used for the prevention of coccidiosis caused by *Eimeria tenella,*

E. necatrix, E. maxima, E. acervulina, E. brunetti, and *E. mivati,* including some field strains of *E. tenella* which are more susceptible to roxarsone combined with salinomycin than to salinomycin alone, and for improved feed efficiency. The NADA is approved and 21 CFR 558.550(b)(1) and 558.635(f)(3)(vi) are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.550 is amended by adding new paragraph (b)(1)(xii) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(b) * * *

(1) * * *

(xii) (*a*) *Amount per ton.* Salinomycin 40 to 60 grams, virginiamycin 5 grams, and roxarsone 45.4 grams.

(*b*) *Indications for use.* For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* which are more susceptible to roxarsone combined with salinomycin than to roxarsone alone, and for improved feed efficiency.

(*c*) *Limitations.* Feed continuously as sole ration. Withdraw 5 days prior to slaughter. Use as sole source of organic arsenic. Not approved for use with pellet binders. Do not feed to layers. May be fatal if accidentally fed to adult turkeys or horses. Virginiamycin as provided by No. 000007 in § 510.600(c) of this chapter. Roxarsone as provided by No. 017210 in § 510.600(c) of this chapter.

* * * * *

3. Section 558.635 is amended by revising paragraph (f)(3)(vi) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(f) * * *

(3) * * *

(vi) Salinomycin alone or with roxarsone as in § 558.550.

Dated: October 24, 1988.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 88–25144 Filed 10–31–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 102

Revolving Cattle Pool

September 26, 1988.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; removal.

SUMMARY: The Bureau of Indian Affairs no longer operates an in-kind revolving cattle pool. The remaining cattle outstanding are on a cash repayment basis to the Revolving Loan Fund. Any future in-kind cattle programs operated by tribal groups or organizations with Bureau financing or support will be submitted under 25 CFR Part 101 or Part 103. The rule at 25 CFR Part 102 is therefore removed. This removal will not have an adverse effect on any ongoing programs.

EFFECTIVE DATE: December 1, 1988.

FOR FURTHER INFORMATION CONTACT: Jennings David Colbert, Division of Financial Assistance, Office of Trust and Economic Development, Bureau of Indian Affairs, Room 4060—Main Interior Building, 18th and C Streets NW., Washington, DC 20240, telephone number (202) 343–3657.

SUPPLEMENTARY INFORMATION: The Act of May 24, 1950 (64 Stat. 190; 25 U.S.C. 443), authorized the deposit into the revolving fund of moneys received in settlement of debts of livestock and from the sale of livestock. The livestock involved originated in drought relief purchases by the Department of Agriculture in 1934 which were turned over to the Bureau to establish foundation herds for Indians. The livestock were loaned to Indians on a "repayment-in-kind" basis. A total of $2.8 million has been deposited in the revolving fund for livestock settlement. Receipt by the Bureau of Indian Affairs of cattle in return for loans of cattle has not been a practice for the past 20 years. All cattle debts have been settled by cash payments.

Pursuant to 5 U.S.C. 553(b)(B), the Bureau of Indian Affairs has determined that notice and public procedures concerning the removal of this rule are unnecessary because there is no longer an active revolving cattle pool activity under this part. Future programs of this type, if any, will be managed under 25 CFR Part 101 or 25 CFR Part 103. Removal of this part is necessary because Part 102 has become obsolete. There will be no effect on the public.

List of Subjects in 25 CFR Part 102

Cattle, Indians—business and finance.

PART 102—[REMOVED AND RESERVED]

Accordingly, for the reasons set out above, 25 CFR Part 102 is removed and reserved.

W.P. Ragsdale,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 88–25257 Filed 10–31–88; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 31, 70, 90, 107, and 188

[CGD 88–070]

Editorial Changes Reflecting Recent Coast Guard Reorganization; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard is correcting an error to a zip code which appears in rule document 88–070 (FR Doc. 88–21974) published on September 27, 1988 at 53 FR 37570.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Don M. Wrye, Office of Chief Counsel, (202) 267–1534.

In rule document 88–070 (FR Doc. 88–21974) beginning on page 37570 in the issue of Tuesday, September 27, 1988, make the following correction:

PARTS 31, 70, 90, 107, AND 188—[CORRECTED]

1. In amendatory instruction 1 of rule document 88–070 (FR Doc. 88–21974), on page 37570 of the issue dated Tuesday, September 27, 1988, the zip code "07653–910" is removed and the zip code "07653–0910" is added in its place.

Dated: October 27, 1988.

J.E. Vorbach,

Rear Admiral, U.S. Coast Guard, Chairman, Marine Safety Council.

[FR Doc. 88–25232 Filed 10–31–88; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 80745–8210]

Groundfish of the Gulf of Alaska

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to amend the definition of directed fishing in the sablefish hook-and-line fishery. Three other regulatory changes are made, which remove superfluous text, improve regulatory implementation, and clarify the regulations.

EFFECTIVE DATE: November 28, 1988.

ADDRESS: Copies of the documents supporting this rule may be obtained from James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska are managed by the Director, Alaska Region, National Marine Fisheries Service (NMFS), under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR Part 611 and for the U.S. fishery at 50 CFR Part 672.

This rulemaking amends four regulations that implement the FMP as follows: (1) The percentage used in the definition of directed sablefish fishing is reduced from 20 percent to 4 percent; (2) definitions of the Central Southeast Outside and Southeast Inside Districts are deleted; (3) reference to the component of domestic annual processing (DAP) that is designated as domestic non-processed (DNP) fish in the processor and purchaser reporting requirements is eliminated; and (4) a starting time of 12:00 noon is established for the sablefish hook-and-line fishery. Reasons for the changes were provided in the notice of proposed rulemaking, which was published on August 19, 1988 (53 FR 31728), and which invited comments until September 19, 1988.

Public Comments

No comments were received.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary for the conservation and management of the sablefish fishery in the Gulf of Alaska and that it is consistent with the Magnuson Act and other applicable law.

The Alaska Region, National Marine Fisheries Service, prepared an environmental assessment/regulatory impact review (EA/RIR) for this rule. The Assistant Administrator for Fisheries concluded that no significant impact on the environment will occur as a result of this rule. You may obtain a copy of the EA/RIR (see **ADDRESS**, above).

The Under Secretary for Oceans and Atmosphere determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the socioeconomic impacts discussed in the EA/RIR.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. The modified definition of sablefish fishing with hook-and-line gear is superior to other alternatives considered. The analysis was summarized in the Classification section of the proposed rule.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

NOAA has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 672

Fisheries.

Dated: October 26, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, Part 672 is amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for Part 672 continues to read as follows:

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

2. In § 672.2, in the introductory text of the definition for *Regulatory District,* the word "four" is revised to read "the three", paragraphs (1) and (2) are removed, and paragraphs (3), (4), and (5) are redesignated (1), (2), and (3), respectively; also in § 672.2, the definition for *Directed Fishing* is revised to read as follows:

§ 672.2 Definitions.

* * * * *

Directed fishing means (1) with respect to any species, stock, or other aggregation of fish, other than sablefish caught with hook-and-line gear, fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of quantities of such fish that amount to 20 percent or more of the catch, take, or harvest, or 20 percent or more of the total amount of fish, or fish products on board at any time. It will be a rebuttable presumption that, when any species, stock, or other aggregation of fish comprises 20 percent or more of the catch, take, or harvest, or 20 percent or more of the total amount of fish or fish products on board at any time, such fishing was directed to fishing for such fish; or

(2) With respect to sablefish caught with hook-and-line gear, fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of quantities of sablefish that amount to 4 percent or more of the catch, take, or harvest, or 4 percent or more of the total amount of groundfish or groundfish products on board at any

time. It will be a rebuttable presumption that, when sablefish comprises 4 percent or more of the catch, take, or harvest, or 4 percent or more of the total amount of fish or fish products on board at any time, such fishing was directed to fishing for sablefish.

* * * * *

§ 672.5 [Amended]

3. In § 672.5(b)(3)(v), the words "and domestic non-processed fish (DNP)" are removed.

4. Section 672.23 is amended by revising paragraph (b) to read as follows:

§ 672.23 Seasons.

* * * * *

(b) Directed fishing for sablefish in the regulatory areas and districts of the Gulf of Alaska is authorized for hook-and-line gear from 12:00 noon Alaska local time on April 1 through December 31 and for pot gear from April 1 through December 31, subject to other provisions of this part.

[FR Doc. 88-25178 Filed 10-27-88; 12:50 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 211
Tuesday, November 1, 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.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1951

Reporting Delinquent Borrowers to Credit Bureaus

AGENCY: Farmers Home administration, USDA.

ACTION: Proposed rule.

SUMMARY: Farmers Home Administration (FmHA) proposes to amend its Single Family Housing Loan servicing regulations to implement a provision of the Debt Collection Act (Pub. L. 97–365) authorizing Federal agencies to refer loans to credit bureaus. This will result in other potential lenders being made aware that an applicant is indebted to FmHA and the status of that debt. The intended effect of this action is to notify the public that FmHA will disclose information on borrowers to credit bureaus. The regulations are also being amended to eliminate the condition that an inequitable effect on a borrower will allow an exception to be granted to the requirements in the regulations.

DATES: Comments must be received on or before January 3, 1989.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Bob Nelson, Management Analyst, Financial and Management Analysis Staff, Farmers Home Administration, U.S. Department of Agriculture, Room 5505 South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 475–4705.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under UDSA procedures established in Department Regulation 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor." It will not 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, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal activity significantly affecting the quality of the human environment and, in accordance with the National Enviromental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

The Debt Collection Act of 1982 (Pub. L. 97–365) authorizes the Federal Government to disclose information on debts to credit reporting agencies. FmHA proposes to change its regulations to implement 31 U.S.C. 3711, which authorizes agencies to disclose information on debts to consumer reporting agencies. FmHA is implementing this procedure to ensure that other lenders are aware if an applicant for credit is indebted to FmHA and the status of that debt. Credit bureau reporting will encourage borrowers to keep their accounts current. This will reduce interest costs to the Government and will reduce the amount of time spent by FmHA servicing loans to delinquent borrowers.

The exception authority provision currently in Subpart G is also being revised to eliminate the condition that an exception may be granted to the requirements in that regulation if there were an inequitable effect on a borrower. This is not consistent with the intent behind the use of the exception authority in general which is to avoid an adverse impact on the Government so long as granting the exception does not violate any statutory authority.

This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.410—Low Income Housing Loans (Section 502 Rural Housing Loans). For the reasons set forth in the Final Rule and related notice(s) to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983), this activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Lists of Subjects in 7 CFR Part 1951

Account servicing and Low and moderate income housing loans—Servicing.

Therefore, FmHA proposes to amend Chapter XVIII, Title 7, Code of Federal Regulations to read as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for Part 1951 continues to read as follows:

Authority: 7 USC 1989, 42 USC 1480, 5 USC 301, 31 USC 3720A, 7 CFR 2.23 and 7 CFR 2.70

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

2. Section 1951.318 is redesignated as § 1951.320, new §§ 1951.318 and 1951.319 are added, and newly designated § 1951.320 is revised to read as follows:

§ 1951.318 Reporting to credit bureaus.

The Finance Office will initially report only those borrowers three payments or more past due (or the equivalent of three monthly payments for annual payment borrowers) to credit bureaus. The Finance Office will notify borrowers that their account is to be reported. Borrowers who are to be reported as delinquent will have 60 days to bring the account current. If the account is not brought current during that time, the account will be reported to the credit bureau as delinquent, and the fact that the account was delinquent will be part of the credit bureau file for seven years. Referrals will include any or all of the following information:

(a) Case number, including Social Security Number.
(b) Name, including co-borrower, if any.
(c) Association code (e.g., individual or joint).
(d) Special comments code (e.g., account in dispute).
(e) Street address.
(f) City, State, ZIP code.
(g) Date loan was made.
(h) Type of loan (e.g., real estate).
(i) Loan number.
(j) Total loan amount.
(k) Date of last payment.
(l) Status (e.g., in collection, foreclosure started).
(m) Date loan became delinquent.
(n) Unpaid balance.
(o) Amount past due.
(p) Terms.

§ 1951.219 Reviewing account status.

(a) If a borrower desires an explanation of the account or disagrees with the stated delinquency during the 60-day period between notification and referral, the borrower may request a meeting with the County Supervisor to discuss the account. If a borrower questions the account status, the account will not be referred until it is determined if the status is correct. The County Supervisor will notify the Finance Office to withhold the referral until the borrower's questions are resolved.

(b) After an account has been referred, borrowers may question information reported by contacting the credit bureau or any FmHA office. The office receiving the request for review will contact the Finance Office. The Finance Office will ensure that the request for review is resolved within 15 days.

§ 1951.320 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision or failure to take action in the case of an ommission would adversely affect the Government's interest. The Administrator will exercise this authority upon the request of the State Director with the recommendation of the Assistant Administrator for Housing; or upon request initiated by the Assistant Administrator for Housing. Requests for exception must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action and show how the adverse effect will be eliminated or minimized if the exception is granted.

Dated September 30, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-25174 Filed 10-31-88; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM-20-17]

Rockefeller University; Receipt of Petition for Rulemaking; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt; correction.

SUMMARY: This document corrects the notice of receipt of a petition for rulemaking dated July 22, 1988, which was filed with the Commission by The Rockefeller University (Docket No. PRM-20-17). The notice of receipt for this petition was published October 21, 1988 (53 FR 41342). This notice corrects an inadvertent typographical error which occurred in the preparation of the notice of receipt.

DATES: The comment period for the notice of receipt for PRM-20-17 has been extended to January 3, 1989. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Acting Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7758 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: On page 41343, in the fourth line of the first sentence of the first full paragraph in the second column, "0.001" should be corrected to read "0.01". The corrected sentence reads as follows:

The petitioner requests that the NRC add Sulfur-35, Calcium-45, Chromium-51, Iodine-125, and Iodine-131 in concentrations not exceeding 0.01 microcurie per gram to the list of radioactive isotopes set out in 10 CFR 20.306(b).

Dated at Bethesda, Maryland, this 26th day of October 1988.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management.

[FR Doc. 88-25224 Filed 10-31-88; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 872 3151]

JS&A Group, Inc., et al.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Northbrook, Ill. company and its president from falsely claiming that any product for personal or household use has been independently investigated or evaluated. It would also prohibit respondents from misrepresenting that a paid advertisement is an independent consumer or news program.

DATE: Comments must be received on or before January 3, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: C. Lee Peeler, FTC/S-4002, Washington, DC 20580. (202) 326-3090.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying

at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

List of Subjects in 16 CFR Part 13

Sunglasses, Trade practices.

In the Matter of JS&A Group, Inc., a corporation, and, Joseph Sugarman, individually and as an officer of said corporation.

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of JS&A Group, Inc., a corporation, and Joseph Sugarman, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between JS&A Group, Inc., by its duly authorized officers, and Joseph Sugarman, individually and as officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent JS&A Group, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at One JS&A Plaza, Northbrook, Illinois 60062.

2. Proposed respondent Joseph Sugarman is President of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, and his address is the same as that of the corporate respondent.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

4. Proposed respondents waive:

(a) Any procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the pubic record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

7. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any rights they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered That respondents JS&A Group, Inc., a corporation, its successors and assigns, and its officer, agents, representatives and employees, and Joseph Sugarman, individually and as officer of the said corporation, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of any sunglass or any other product for personal or household use, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or indirectly, that such product has been independently investigated or evaluated.

B. Misrepresenting, directly or indirectly, that an advertisement is an independent consumer or news program and not a paid advertisement.

C. For a period of ten (10) years from the date of service of this Order, failing to disclose clearly and prominently in any program length advertisement that the program is an advertisement or commercial. Such fact shall be disclosed at the beginning of the program. In addition, such fact shall be disclosed each time during the program that ordering instructions are given, or at the end of the program if no ordering instructions are given, provided however, that such additional disclosures need not appear more than twice during any half hour period of the program. For purposes of this Order, "program length advertisement" shall mean any video advertisement that ends fifteen minutes or more after it begins.

II

It is further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

III

It is further ordered that respondents shall forthwith distribute a copy of this Order to each of their operating divisions.

IV

It is further ordered that respondents shall, within sixty (60) days after service of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted subject to final approval an agreement to a proposed consent order from respondents JS&A Group, Inc. and Joseph Sugarman, its president and owner.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the proposed order contained in the agreement.

This matter concerns the promotion of BluBlocker Sunglasses through a print advertisement and "Consumer Challenge", a program length video advertisement.

The Commission's complaint in this matter charges respondents with disseminating advertisements containing false representations that BluBlocker Sunglasses were independently and objectively investigated and endorsed by "Consumer Challenge", an independent consumer program such as "60 Minutes" or "20/20". The complaint also alleges that advertisements for BluBlockers falsely claimed that the producers and investigative reporters of "Consumer Challenge" conducted an independent and objective investigation of BluBlockers without receiving any reimbursement or other financial benefit from respondents.

The complaint alleges that these claims are, in fact, false and that "Consumer Challenge" is not an independent consumer program but rather was created by respondents for the sole purpose of selling BluBlockers. Moreover, the producers and so-called investigative reporters of "Consumer Challenge" were paid directly or indirectly by respondents for producing and acting in the advertisement.

The consent order contains provisions designed to remedy the advertising violations charged as well as to prevent respondents from engaging in similar acts and practices in the future. Part IA of the consent order prohibits respondents from misrepresenting, directly or indirectly, that is product has been independently investigated or evaluated. Part IB prohibits respondents from misrepresenting, directly or indirectly, that an advertisement is an independent consumer or news program and not a paid advertisement.

Part IC of the consent order prohibits respondents from failing to disclose for a period of ten years in all program length advertisement that the program is an advertisement or commercial. Such fact is to be disclosed at the beginning of the program, and in addition, each time during the program that ordering instructions are given, or at the end of the program if no ordering instructions are given. These additional disclosures need not appear more than twice during any half hour period of the program. The final provision of Part IC defines "program length advertisement" for purposes of this order to mean any video advertisement that ends fifteen minutes or more after it begins.

Part II of the consent order requires that respondents notify the Commission at least thirty days prior to any proposed change in the corporate respondents. Part III orders respondents to distribute a copy of the order to each of their operating divisions. Finally, Part IV requires respondents to provide a report to the Commission on its compliance with the provisions of the consent order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 88-25194 Filed 10-31-88; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6806; File No. S7-23-88]

Resale of Restricted Securities; Changes To Method of Determining Holding Period of Restricted Securities Under Rules 144 and 145

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Securities and Exchange Commission (the "Commission") today is publishing for comment Rule 144A that would provide a safe harbor exemption from the registration requirements of the Securities Act of 1933 (the "Securities Act" or the "Act") for resale of securities to institutional investors.

The Commission additionally is publishing for comment an amendment to Rule 144 under the Act to define the required holding period for restricted securities, whether acquired pursuant to Rule 144A or otherwise, as commencing at the time of sale by the issuer or its affiliate.

DATE: Comments should be received on or before December 31, 1988.

ADDRESS: Coments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File No. S7-23-88. All comments received will be available for public inspection and copying in the Commission's Public Reference Room at the same address.

FOR FURTHER INFORMATION CONTACT: Sara Hanks or Samuel Wolff at (202) 272-3246, or (as to changes to Rule 144) Catherine Dixon at (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

I. Executive Summary

A. New Rule 144A

The Commission is proposing for comment a new Rule 144A that would provide a non-exclusive safe harbor from the registration requirements of the Securities Act [1] for resales of securities to institutional investors.

The rule provides a safe harbor for three tiers of transactions. The first tier (the "qualified institutional buyer tier") would permit unlimited resales of any securities of any issuer, provided that the purchaser was a specified institution with assets in excess of $100 million or that the seller reasonably believed that the purchaser was such a qualified institution. The second tier (the "non-fungible securities tier") would allow unlimited resales of securities to a wider class of specified institutions, if (i) securities of the class offered or sold were not quoted in an inter-dealer quotation system, listed on a securities exchange in the United States, or issued by an open-end investment company, unit investment trust or face-amount certificate company that is registered under section 8 of the Investment Company Act of 1940 (the "Investment

[1] 15 U.S.C. 77a *et seq.*

Company Act"),[2] and (ii) the securities were non-convertible debt securities, non-convertible preferred stock or securities issued by a company subject to a continuous reporting obligation under the Securities Exchange Act of 1934 (the "Exchange Act").[3] The third tier of proposed Rule 144A would cover resales of non-convertible debt securities, non-convertible preferred stock and securities of reporting companies that are traded in a public market in the United States ("fungible securities") to the same class of institutions as permitted in the second tier.

The qualified institutional buyer and non-fungible securities tiers of the proposed Rule impose no resale restrictions, requiring only that the seller or any person acting on its behalf take reasonable steps to ensure that the buyer is aware that the seller may rely on the exemption from the Securities Act's registration requirements afforded by Rule 144A. In contrast the fungible securities tier requires that the seller or any person acting on its behalf take reasonable steps to prevent the purchaser from reselling the securities in the United States unless they are registered under the Securities Act or an exemption from registration is available. The rule sets forth a non-exclusive method by which that obligation can be satisfied.

The proposed Rule provides a safe harbor exemption from the registration requirements of the Securities Act that would not be exclusive. Attempted reliance on the new safe harbor would not preclude the availability of any other exemption from registration under the Act.

The Commission also is considering adoption of each tier of the Rule independently, or adoption of two tiers without the third. Moreover, the Commission may choose to proceed with one or two tiers of the Rule prior to reaching a final determination as to adoption of the other(s).

B. Amendments to Rules 144 and 145

The Commission also is proposing for comment amendments to rules 144 and 145. Rule 144 permits the public resale of restricted securities when certain conditions, including a minimum holding period, are met. Under the proposed amendments, the time that must elapse before public resale of restricted securities (whether acquired in reliance on Rule 144A or otherwise) would be redefined to commence when the securities are sold by the issuer or its affiliate. Because Rule 145 holding periods are determined by reference to Rule 144, Rule 145 is proposed to be amended to reflect the proposed changes to Rule 144.

The proposed changes to the holding period requirements, which would permit subsequent unaffiliated purchasers to satisfy the requirements through use of the period in which their seller held the securities, would affect trading in all restricted securities, not only those sold under proposed Rule 144A. The proposals thus involve issues that extend beyond the implications for proposed Rule 144A and may be considered by the Commission separately. Accordingly, commentators should address not only the impact of adoption of the two proposals in tandem, but also the potential separate effect of each.

II. The Private Placement Market

A. Market Characteristics

The U.S. private placement market is one of the world's largest securities markets.[4] Its volume of bonds outstanding ranks fifth among the bond markets of the world.[5] About thirty percent of all privately placed bonds outstanding in the world were issued in the U.S. market.[6] At year-end 1987, the aggregate value of outstanding bonds that were issued in the U.S. private market was only slightly less than the aggregate value of outstanding Eurodollar bonds.[7]

While the U.S. private placement market is not new,[8] its importance as a source of funds has increased significantly, especially in the 1980s.[9] The total amount of securities privately placed in the United States increased at an average annual compounded rate of 41% from $18 billion in 1981 [10] to $139 billion in 1987.[11] Table 1 shows new corporate public and private financing for 1970, 1975 and the period 1980–1987.[12]

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[2] 15 U.S.C. 80a–8.

[3] 15 U.S.C. 78a *et seq.*

[4] *See* Salomon Brothers Inc, *How Big Is the World Bond Market?—1988 Update* 1 (May 20, 1988); H. Lund, R. Sibert and P Chamberlain (eds.), *Private Placements: National and International Markets* 109 (1984) (hereinafter "Lund").

[5] *See* Salomon Brothers Inc, *supra* n. 4, at 1 (dollar-denominated corporate bonds issued in the U.S. capital market); *cf.* Lund, *supra* n. 4, at 109.

[6] *See* Salomon Brothers Inc, *supra* n. 4, at 1.

[7] *Id.* Data include straight, convertible and floating-rate debt.

[8] *See* E. Shapiro and C. Wolf, *The Role of Private Placements in Corporate Finance* (1972); A. Brimmer, *Life Insurance Companies in the Capital Market* (1962); A. Cohan, *Private Placements and Public Offerings: Market Shares Since 1935* (1961); Mendel, *Institutional Investment Through Private Placement of Corporate Securities*, 53 Col. L. Rev. 804 (1953); Hale, *The Yearbook of Private Placement Financing* (1953); Cross, *Investment Banking and "Private Placements,"* 175 Comm. & Fin. Chron. 1693 (1952); Whipple and Silloway, *Direct Placement of Corporate Loans—A Logical Development*, 175 Comm. & Fin. Chron. 1701 (1952); Conklin, *Direct Placements*, 6 J. of Fin. 85 (June 1951); E. Corey, *Direct Placements of Corporate Securities* 3 (1951); Ketchum, *Direct Placements* 6 J. of Fin. (June 1951); Fraine, *Direct Sale of Security Issues*, 16 J. Am. Ass'n of Univ. Teachers of Ins. 40 (1949); Kuhn, *The Securities Act and Its Effect Upon the Institutional Investor*, 4 L. & Contemp. Prob. 84 (1937).

[9] Maher, *Leveling Off: The Difference Between Public and Private Market Financing Costs Is Slimmer Than Ever*, Investment Dealers' Digest 17 (Oct. 3, 1988); *Private Placement Use To Grow*, Pens. & Inv. Age 18 (Sept. 19, 1988); Zigas, *The Bonds Most Investors Never Hear About*, Bus. Week 152 (Sept. 19, 1988); Parker, *More Issuers Turn to Private Market*, Pens. & Inv. Age 3 (Feb. 8, 1988); Wayne, *A Wall Street Sector Blossoms: The Private Placement*, The New York Times D1 (July 17, 1987); Baker, *Private Offers Up*, Pens. & Inv Age 23 (Apr. 6, 1987); Picker, *Breaking Records: Private Placements Grow in Popularity, Complexity*, Investment Dealers' Digest 30 (Mar. 9, 1987); Monahan, *Private Placements Soar*, Investment Dealers' Digest 8 (Feb. 8, 1983).

[10] Christie, *1981—An Innovative Year in the Private Sector*, Investment Dealers' Digest 20 (Mar. 20, 1982).

[11] Bensman, *Shifting Boundaries: Moving the Line Between the Public and Private Markets*, Investment Dealers' Digest 19 (Mar. 21, 1988). Total private placements amounted to $71 billion in the first half of 1988 compared to $62 billion in the first hafl of 1987. Maher, *supra* n. 9, at 20.

[12] The data in Table 1 and much of the other data cited in this Release are based upon data published in the *Investment Dealers' Digest* and Dealers' Digest, *Directory of Corporate Financing*, or obtained from IDD Information Services, Inc. *See* Dealers' Digest, *Directory of Corporate Financing: Semi Annual Directory* (Spring 1988); *id.* (Spring 1987); Higgins, *The Big Four of Private Placements*, Investment Dealers' Digest 13 (March 1985); Dealers' Digest, *Five Year Directory of Corporate Financing 1980–1984; id., Directory of Corporate Financing: 1970–1980 Decade.* Private placement totals for 1984–1987 are from IDD Information Services, Inc. The *Investment Dealers' Digest* defines "private placement" to include securities that are privately placed through a dealer with non-bank, third-party investors, where the securities have a maturity of at least one year and are non-callable for at least one year. Bensman, *supra* n. 11, at 18. The definition thus would generally exclude privately placed commercial paper. The data do not include securities privately placed directly by the issuer. Bank loans, interest rate and currency swaps and securities that a dealer buys for its own account are not included in the data. Finally, the data exclude school issues, tax-exempt securities, sales of outstanding securities, private placements purchased by foreign investors and bridge loans. *See* Bensman, *supra* n. 11, at 17–18; Bensman, *Equity Kickers* 23–24 (Sept. 14, 1987); Christie, *Private Sector In Slump During 1980*, Investment Dealers' Digest 36 (Mar. 3, 1981).

The annual figures published by the *Investment Dealers' Digest* are not in all cases directly comparable, because the publication made various changes to its classifications in some years. Moreover, the data presented appear to be under-inclusive, in view of the narrowness of the definition of private placement. Nonetheless, they provide an estimate of minimum amounts of securities privately placed annually.

The data presented in this Release have not been verified independently by the Commission or its staff.

TABLE 1.—NEW CORPORATE PUBLIC AND PRIVATE FINANCING

[Millions of dollars]

	Public	Percent public	Private	Percent private	Total new financing
1970	31,130	83	6,373	17	37,503
1975	46,828	78	13,515	22	60,343
1980	57,330	78	15,700	22	73,030
1981	56,085	75	18,400	25	74,485
1982	62,566	72	24,300	28	86,866
1983	97,103	73	35,600	27	133,703
1984	82,199	61	53,258	39	135,457
1985	138,288	65	73,093	35	211,380
1986	6,040	70	123,457	30	409,497
1987	271,477	66	139,355	34	410,832

Since 1980, the primary market in private placements has shown a 37 percent compound average annual growth rate in dollar volume and a corresponding 41 percent growth rate since 1983. In the same periods, the compound average annual growth rate of new financing placed in the public sector was approximately 25 percent and 29 percent, respectively.

The private placement market in the United States is primarily a debt market, although private issuances of equity securities began to increase in the mid-1980s.[13] Private placements by type of security are shown in Table 2 for 1965, 1975 and the period 1980–1987.[14]

[13] *See* Parker, *supra* n. 9, at 34.

[14] Higgins, *supra* n. 12, at 13; Dealers' Digest, *Directory of Corporate Financing: 1970–1980 Decade;* Investment Dealers' Digest and Investment Bankers Association, *1960–1969: A Decade of Corporate and International Finance* 12. Data for 1985–1987 are from IDD Information Services, Inc.

TABLE 2.—AMOUNT OF PRIVATE PLACEMENTS BY TYPE OF SECURITY

[Millions of dollars]

	Debt	Percent debt	Equity	Percent equity	Total
1965	9,562	97	258	3	9,820
1975	12,852	95	663	5	13,515
1980	13,800	88	1,900	12	15,700
1981	16,000	87	2,400	13	18,400
1982	20,700	85	3,600	15	24,300
1983	28,800	81	6,800	19	35,600
1984	43,600	82	9,700	18	53,300
1985	60,565	83	12,528	17	73,093
1986	110,524	90	12,933	10	123,457
1987	122,124	88	17,231	12	139,355

In 1987, debt securities privately placed totaled $122 billion, or 88 percent of total new private placements in the United States.[15] Privately placed debt securities include senior, subordinated and convertible debt issued on an unsecured and secured basis.[16] Traditionally, privately placed debt has been long-term,[17] but a trend toward shorter maturities began in the 1970s.[18] The private placement market presently includes securities with a broad range of maturities,[19] including commercial paper and medium-term notes.[20] In general, debt securities that provide a relatively predictable cash flow are attractive to "liability-matching" investors such as insurance companies.[21]

Equity securities privately placed in 1987 totalled $17 billion, or 12 percent of total new private placements in the United States.[22] Privately placed equity securities include preferred stock,[23] common stock and other equity.

[15] IDD Information Services, Inc. This amount includes, *inter alia,* straight debt, lease-, mortgage-, and acquisition-related debt, private debt with registration rights and certificates of deposit placed through a dealer.

[16] *See* Dash, *The Private Placement Alternative,* in *Private Placements 1988,* at 123 (1988).

Of total debt securities issued privately in 1987, the components were as follows: Bonds, 23 percent; notes, 59 percent; certificates of deposit, 9 percent; lease-related, 7 percent; and other, 2 percent. IDD Information Services, Inc.

[17] Interviews of members of the financial services industry ("Market Participants") by the SEC staff. During 1988, the Commission's staff conducted numerous interviews of members of the financial services industry, including investment banks, commercial banks, insurance companies and pension funds, to discuss the private placement market. *See also* Bensman, *supra* n. 11, at 18 (traditional placement was long-term investment grade debt); Lund, *supra* n. 4, at 109, 111; Corey, *supra* n. 8, at 43.

[18] Market Participants, *supra* n. 17 (most common maturity is 10–12 years); Higgins, *supra* n. 12, at 12 (10 years or less maturity predominates); Picker, *supra* n. 9, at 30; Altman, *Financial Handbook,* 4–23 (1981). "[I]n response to shifting needs of both borrowers and lenders, financings of debt with intermediate maturities (1–10 years) have become more prevalent." *Id.*

[19] *See* Parker, *supra* n. 9, at 34 (1–25 years); Market Participants, *supra* n. 17.

[20] Market Participants, *supra* n. 17. To be included in the Investment Dealers' Digest tabulations of "private placement," *see* Table 1, *supra,* securities must have a maturity of at least one year. *See* Bensman, *supra* n. 11, at 18.

[21] Market Participants, *supra* n. 17.

[22] IDD Information Services, Inc.

[23] In 1987, preferred stock accounted for 26 percent of total equity privately placed. IDD Information Services, Inc. During the period 1980–1984, preferred stock accounted for 32 percent of total equity securities privately placed. Higgins, *supra* n. 12, at 13. In 1977, preferred stocks accounted for 92 percent of total private equity. Christie, *1981-An Innovative Year in the Private Sector,* Investment Dealers' Digest 21 (Mar. 30, 1982).

The market for preferred stock began to grow in the 1970s. Altman, *supra* n. 18, at 422. This growth is reported to be largely attributable to the increased use of preferred stocks in corporate mergers, and to the increased participation of utility companies in the private placement market. *Id.* The development of an intermediate preferred market in the 1970s also contributed to the expansion of the private preferred market. *Id.,* at 4–23. Today, the preferred market includes a wide range of securities. *E.g.,* Bensman, *supra* n. 11, at 17 (private placement in the United States of Dutch auction preferred stock by foreign issuer).

In 1987, common stock accounted for only 16 percent of total equity privately issued.[24] Excluding equity portions of lease financings, mortgage- and acquisition-related financings and private transactions with registration rights, the amount of equity sold privately in 1987 totalled approximately $12 billion.[25]

In 1987 almost $16 billion in private financing (including debt and equity securities) was acquisition-related.[26] Private placements of securitized assets grew in 1987 to $23 billion, reflecting increases in the overall mortgage and asset-backed market.[27] Lease-related private placements also continued to grow in 1987, reaching about $15 billion by year end.[28]

B. Issuers

A Diverse group of issuers supplies securities to the private market.[29] The core segment of the market traditionally has been the "lower investment-quality issues":

> The core market comprises mainly the large but not giant corporations, those with a bond rating of A or Baa from Moody's, or an A or BBB from Standard & Poor's. * * * Long-term loans to these borrowers are perceived as somewhat risky (at least compared to government obligations) but overall not likely to default. * * * They constitute the lower end of the investment grade securities, which institutions consider prudent fiduciary investments.[30]

Less significant segments of the private placement market are the two ends of the spectrum in terms of risk.[31] At one end are high quality, highly rated issuers whose securities are preferred by conservative investors, such as public retirement funds.[32] Higher quality issuers are more apt than lower quality issuers to use the public markets for financing, given the accessibility of the public market and the ease of registration.[33] At the other end of the spectrum are highly leveraged and other higher risk issuers whose securities frequently are purchased by asset-based lenders (such as commercial finance companies) and venture capitalists, as well as by insurance companies.[34] Private placement of "high yield" debt has increased substantially in the last four years.[35]

By industry type, industrial companies are the largest issuers in the private market, followed by finance companies and utilities,[36] as shown in Table 3.[37]

TABLE 3—PRIVATE PLACEMENTS BY TYPE OF ISSUER

[Millions of dollars

	Utilities	Industrials	Finance companies	Foreign	Total
1980	2,398	10,062	1,205	719	15,700
1981	3,948	10,080	1,208	1,803	18,400
1982	2,420	13,218	2,162	1,432	24,300
1983	2,798	18,813	8,338	2,851	35,600
1984	4,807	22,600	21,300	3,300	53,300
1985	4,000	36,900	26,200	2,500	73,093
1986	6,400	58,200	53,200	10,700	123,457
1987	8,800	64,800	62,000	6,700	139,355

[24] IDD Information Services, Inc. "Other equity," which includes equity portions of lease financings and limited partnership interests, *see* Monahan, *Private Placements Soar*, Investment Dealers' Digest 9 (Feb. 8, 1983), accounted for 58 percent of private equity in 1987. IDD Information Services, Inc. *See also* Lund, supra, n. 4, at 110 (private equity is largely just participation in various kinds of tax-oriented investments, such as equipment financing and oil-and-gas partnerships); Bensman, *supra* n. 11, at 22 (large amount of limited partnership interests in leveraged buyout funds).

[25] Bensman, *supra* n. 11, at 20.

[26] *Id. See LBOs Forced to Abandon Public Market for Private Investors*, 13 Corp. Fin. Week 2 (Dec. 28, 1987).

[27] Bensman, *supra* n. 11, at 20, 21. Securitized transactions include mortgage-related placements, receivables-backed securities (*e.g.*, securitized car loans, and other asset-backed securities. *Id.* Mortgage-related private placements amounted to $13 billion in 1986. See Picker, *supra* n. 9, at 34 (total includes only mortgage-related placements, and excludes receivables-backed and other asset-backed securities.) *See generally* Cumming, *The Economics of Securitization*, 12 Fed. Res. Bank of N.Y. Q. Rev. 11 (Fall 1987). *See also Holiday Uses Unique Collateral In Private Deal*, 14 Corp. Fin. week (Feb. 29, 1988) (franchise royalties); Givant, *World Taking Asset-Backed Idea to Heart*, 16 Pens. & Inv. Age 37 (May 2, 1988); *Mortgage Loans*, 153 Am. Banker (Mar. 29, 1988); Albert, *Auto Leases Used to Back 4-Year Notes*, Am. Banker (Oct. 13, 1987). Fraust, *Loan-Sales Gurus Project Big Growth*, Am. Banker 7 (Aug. 22, 1988); Neustadt, *Insurer Buys $400 Million of Card-Backed Notes*, Am. Banker 2 (June 22, 1988); *Major Mortgage-Backed Securities Offerings*, Am. Banker 12 (May 20, 1988).

[28] Bensman *supra* n. 11, at 21. The significant increase from the 1986 total of $11.5 billion represents, in part, an increase in aircraft lease finance. *Id. See also* Lund, *supra* n. 4, at 114 (equipment financing also includes railroad stock, freighters, tankers and pipelines). *See* generally Kadlec, *The Lease Finance Business is Exploding*, Investment Dealers' Digest 18 (Mar. 10, 1986).

[29] Lund, *supra* n. 4, at 111.

[30] *Id. See also* Gage, *Private Placement: A New Option for the Middle Market*, 8 Cash Flow 49 (Feb. 1987); *Private Window Opens for Baa Issuers*, 13 Corp. Fin. Week 1 (Jan. 26, 1987); *Equitable Nixes Private High Grade Corporates*, 13 Corp. Fin. week 1 (Feb. 2, 1987); *Raising More Cash in Private Placements*, Business Week 96 (Oct. 27, 1975) (lower-grade companies that cannot borrow in the public market are using private market).

[31] Lund, *supra* n. 4, at 112.

[32] *Id.*

[33] Market Participants, *supra* n. 17.

[34] Lund, *supra* n. 4, at 113. *See also Raising More Cash in Private Placements*, Business Week 96 (Oct. 27, 1975).

[35] Market Participants, *supra* n. 17; *see* Bensman, *supra* n. 11, at 17; Picker, *supra*, n. 9, at 30.

[36] *See generally* Shapiro and Wolf, *supra* n. 8, at 30–35 (substantial reliance by utilities on public market); Wolf, *Demand for Funds in the Public and Private Corporate Bond Market*, 65 Rev. of Econ. and Statistics 27 (Feb. 1974) (same). *See also Gas Company Debt Issues*, 112 Pub. Util. Fortn. 44 (Dec. 22, 1983) (during period 1981–1983, 33 percent of debt financing by natural gas industry was placed privately). *Mississippi P&L Turns to Private Market for Junk Bonds*, 13 Corp. Fin. Week 8 (Dec. 28, 1987).

A large amount of real estate securities is also sold privately. Wolf, *supra* at 26. Shapiro, *supra* n. 19, at 41–43, 142.

[37] *A Good Year for Private Placements*, Investment Dealers' Digest 8 (Mar. 13, 1984). Data for 1984–1987 are from IDD Information Services, Inc. The issuers shown do not represent all categories of issuers. The sum of the amounts presented in the four categories does not equal the totals, because not all categories of issuers are shown; also, amounts shown under "foreign issuers" also may be counted in other categories (*e.g.*, industrials). In addition to the categories shown, the totals include government securities and "other" securities. "Industrials" include, *inter alia*, transportation securities and service companies.

Historically, private placements in the United States by foreign issuers have been relatively limited. Recently, however, foreign governments [38] as well as foreign private companies [39] have privately placed substantial amounts of securities in the United States, although such placements still only account for a small percentage of the private market. In 1987, foreign issuers (including Canadian issuers) privately placed securities aggregating $6.7 billion in the United States.[40] These transactions have frequently taken the form of a U.S. private placement made contemporaneously with an offshore offering.[41] The participation of foreign issuers in the U.S. private placement market may be limited by state laws or internal regulations that restrict the percentage of assets that insurance companies and pension funds may invest in foreign securities.[42]

Domestic issuers of equity in private placements are usually non-reporting companies.[43] Secondary market liquidity for reporting companies provides a strong incentive to issue freely resalable securities.[44] At the same time, the existence of secondary market liquidity for these issuers creates concern that fungible privately placed equity securities will be resold into the retail market. On the other hand, a large amount of debt is sold in private placements by reporting companies, in situations where there is no pre-existing public market providing easy resale.[45]

Issuers reportedly participate in the private market to preserve confidentiality; to avoid the rating process; to issue securities with complicated or unusual terms; to reduce costs of issuance; to avoid delays associated with registration; and to delay take-down of funds.[46]

C. Investors

Investors in the private placement market are almost exclusive institutions.[47] Insurance companies became [48] and remain [49] the dominant investors in this market, consistently supplying substantial funds to the U.S. private market since its inception.[50] Acquisitions of privately placed securities by insurance companies account for the vast majority of total private offerings.[51]

Various other institutions participate as investors in the private market, but the extent of their participation is small relative to that of insurance companies. Private pension funds, state and local governments, domestic bank trust departments, bank holding companies, and similar institutions purchase privately placed securities,[52] although their collective purchases in the 1980s have been estimated to account for only about 10 to 20 percent of total private placements.[53]

Venture capitalists invest in the private market [54] and tend to purchase securities of start-up companies, highly leveraged companies or other higher risk enterprises.[55] Foreign institutions, particularly Japanese investors, have participated in the U.S. private placement market in recent years in a wide variety of transactions, including complex placements such as leveraged leases and leveraged buy-outs.[56]

Generally, the reasons given for investors' participation in the U.S. private market are yield incentives, asset/liability matching, the ability to take large participations, better call protection, and better covenant protection.[57]

D. Intermediaries

Intermediaries are used in the private placement market as in other U.S. financial markets. However, the system

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[38] *E.g., Belgium to Tap Private Placement Market*, 14 Corp. Fin. Week 1 (May 9, 1988).

[39] *Wave of Foreign Debt to Hit U.S. Private Placement Market*, 13 Corp. Fin. Week 1 (Dec. 14, 1987). Several private placement professionals have pointed to "a continuing trend among foreign issuers to use the U.S. private market because it offers competitive rates, and all-in financing costs may be lower than U.S. public and Eurobond market rates." *See Belgium to Tap Private Placement Market, supra* n. 38, at 1. *See also* Lund, *supra* n. 4, at 114; Bensman, *supra* n. 11, at 17 (U.S. private market desirable for European companies with dollar exposures to get long-term, fixed-rate financing).

[40] IDD Information Services, Inc. The same year, foreign issuers registered with the Commission securities aggregating $12 billion.

[41] Lund, *supra* n. 4, at 42. *E.g., CGE Plans U.S. Placement at Time of Offer in France*, Wall St. J. 31 (Apr. 28, 1987) (CIE Generale D'Electricite).

[42] *See* Lund, *supra* n. 4, at 114. *E.g.*, N.Y. Insurance Law § 1405(a)(7) (McKinney 1985); *Wave of Foreign Debt to Hit U.S. Private Market*, 13 Corp. Fin. Week 1, 12 (Dec. 14, 1987).

[43] Market Participants, *supra* n. 17. Public companies reportedly tend to issue equity securities only in special circumstances, such as a debt transaction with an equity component (*e.g.*, debt with warrants); a takeover defense; a leveraged buy-out; a joint venture; or a restructuring. *Id.* Occasionally, small public companies issue equity privately, but ordinarily only to satisfy a relatively small need for funds.

[44] Restricted securities typically sell at a discount to securities that are freely tradeable in the public market. Market participants, *supra* n. 17. *See* Bolten, *Discounts for the Stocks of Closely Held Corporations*, Trusts & Estates 22 (Dec. 1984); Gelman, *An Economist-Financial Analyst's Approach to Valuing Stock of a Closely-Held Company*, J. of Taxation 353 (June 1972); Feld, *The Implications of Minority Interest and Stock Restrictions in Valuing Closely-Held Shares*, Univ. of Pa. L. Rev. 934 (1974).

[45] Market Participants, *supra*, n. 17.

[46] Dash, *supra* n. 16 at 24; Lund, *Supra* n. 4, at 111; W. Cowie, *Direct Placements with Insurance Companies*, in 6 N.Y. State Ins. Dept. Examination of Ins. Companies (1955); Wolf, *supra* n. 36, at 27, 28. *See also*, Bensman, *supra* n. 11, at 19 (private market used for complex transactions); *Small Lenders Heat Up Competition in Private Placement Market*, 14 Corp. Fin. Week 1 (Apr 11, 1988) (delayed delivery feature permits issuers to lock-in rate for securities to be issued in the future).

[47] Market Participants, *supra* n. 17. Indeed, an important catalyst to the development of the private placement market in the United States was the tremendous growth in institutional savings, especially in the form of life insurance reserves. E. Shapiro and Wolf, *supra* n. 8.

[48] Shapiro and Wolf, *supra* n. 8, at 50. "Life insurance companies have been the most active and consistent participants in the private market during the post-war period." *Id.* at 49 (1972). One reason for the dominance of insurance companies as investors in the private market has been the growth in life insurance assets coupled with difficulties in finding qualified outlets for life insurance funds. Corey, *supra* n. 8, at 19. "Competing as they do with other investors for the available supply of investments, life companies as a group face an investment problem created by their own size." *Id.* (1951).

[49] Wayne, *supra* n. 9, at D2; Baker, *Private Offers Up*, Pens. & Inv. Age 23 (Apr. 6, 1987); Higgins, *supra* n. 12, at 13; *Insurance Companies Feed Private Placement Market*, 11 Pens. & Inv. Age 33 (July 11, 1983).

[50] *See* Lund, *supra* n. 4, at 110.

[51] Market Participants, *supra* n. 17; Cabanilla, *Directly Placed Bonds: A Test of Market Efficiency*, 10 J. of Portfolio Management 72 (Winter 1984).

[52] Market Participants, *supra* n. 17; Lund, *supra* n. 4, at 109.

[53] Market Participants, *supra* n. 17. Traditionally, pension funds have tended to prefer securities of higher quality issuers than have insurance companies. *Id.*

[54] Lund, *supra* n. 4, at 113. Benton and Gunderson, *Venture Capital Financings and Exemptions from Registration Under the Securities Act of 1933: Section 4(2), Rule 146 and Rule 242*, 21 Santa Clara L. Rev. 23 (Winter 1981). *Cf.* Torpey and Viscione, *Mezzanine Money for Smaller Businesses*, 3 Harv. B. Rev. 116 (May-June 1987).

[55] Lund, *supra* n. 4, at 113.

[56] Parker, *supra* n. 9, at 3 (Japanese institutions); Wayne, *A Wall Street Sector Blossoms: The Private Placements*, The New York Times D2 (July 17, 1987) (Japanese investors); Keslar, *Joining in a Private Fight: Commercial Banks Are Doing Private Placements*, Euromoney 175 (Dec. 1986) (Japanese institutions and European banks); Greene, *Every Risk Has Its Price*, Forbes 156 (Nov. 16, 1987); Gage, *Wide Range of Factors Favor Overseas Financing*, 8 Cash Flow 53 (Sept. 1987) (discussing private placements by U.S. corporations to foreign investors offshore); *Fed Approves Sale of Major Stake in CB Bancshares to Japanese*, Am. Bank. 2 (May 12, 1987) (private placement to Japanese finance company); Blanton, *Japanese Companies Help Jet Financing Get Off Ground*, Pens. & Inv. Age 47 (Oct. 1, 1984); Albert, *Banks Sell Notes Backed by Associated Grocers' Assets*, Am. Bank. 30 (Feb. 16, 1988) (foreign banks major purchasers in asset-backed securities transaction); Bensman, *supra* n. 11, at 22 (Japanese investment in privately placed interests in leveraged buyout funds); Parker, supra n. 9, at 34 (participation of Japanese investors in leveraged buyouts); Parker, *supra* n. 9, at 30, 35; Hemmerick, *Japanese Vie for U.S. Debt Market*, Pens. & Inv. Age 6 (Nov. 30, 1987).

[57] Dash, *supra* n. 16, at 128; *see also LBOs Forced to Abandon Public Market for Private Investors*, 13 Corp. Fin. Week (Dec. 28, 1987); Parker, *supra* n. 9, at 34.

for placing new issues in the private market is less standardized than that in the public market.[58] While in some cases the issuer and investor deal directly with each other, the major portion of new issues in the private market is placed by intermediaries.[59] The average size of private issues sold by intermediaries tends to be larger than private placements sold directly.[60]

Historically, investment banks have played the major role as intermediaries in the private market; [61] however, in the 1980s, commercial banks have become more active.[62]

Of the 20 private placement agents placing the largest amount of securities in 1987, 12 investment banks placed $96 billion of securities and eight commercial banks placed $34 billion.[63] Traditionally, commercial banks have been most active in placing straight debt securities,[64] but banks are reported to be increasingly active in privately placing asset-backed securities and certificates of deposit.[65] The parameters of commercial banks' participation as intermediaries are set by the Glass-Steagall Act.[66]

III. The Secondary Market for Private Placements

A secondary market for privately placed securities has become an established feature of American corporate finance.[67] In 1979, a Bar committee reported that "an active and substantial [68] secondary market for the resale of privately placed debt securities exists and functions alongside the secondary markets for the resale of other securities." [69] Estimates of total volume of secondary trading in private placements in the 1980s have ranged from $1.5 to $6 billion annually.[70]

In contrast to the primary market for private placements, which includes a significant equity component, the secondary market for private placements reportedly consists almost entirely of debt securities.[71] The majority of these securities have not been rated by a nationally recognized statistical rating organization,[72] although in many cases other debt securities of the issuer are rated, often investment grade.[73] Straight debt securities are resold in the secondary market more frequently than debt securities with complex terms and covenants.[74] Larger original issues are resold more frequently than smaller issues.[75] The secondary market for privately placed commercial paper reportedly is small, due to the short-term nature of the instruments.[76]

Most issuers of securities resold in the secondary private placement market are domestic issuers.[77] Domestic issuers of debt securities resold in the secondary private market are, more often than not, reporting companies.[78] However, the limited equity securities resold in the secondary market usually are issued by non-reporting companies.[79] Buying and selling in the secondary market mirror the activity in the primary market. Buyers and sellers are almost always institutions,[80] and are predominantly insurance companies.[81]

Volume is often higher at year-end,[82] reflecting the tax considerations that

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[58] *See* Cabanilla, *supra* n. 51, at 72.

[59] Market Participants, *supra* n. 17; Shapiro and Wolf, *supra* n. 8, at 79.

[60] Market Participants, *supra* n. 17.

[61] Rudin, *Investment Banks Retain Dominance*, Pens. & Inv. Age 17 (October 5, 1987).

[62] Neustadt, *Banks Take Big Share of Private Financing Market*, 153 Am. Bank. 21 (March 21, 1988); Neustadt, *Banks Encroach on Wall Street's Turf*, 153 Am. Bank. 1 (April 4, 1988); Keslar, *Joining in the Private Fight: Commercial Banks Entering the Private Placement Market*, Euromoney 175 (Dec. 19, 1986); Albert, *Banks Forge Ahead with Private Placements*, 151 Am. Bank. 1 (July 17, 1988); Parker, *Commercial Banks Take Aim*, 16 Pens. & Inv. Age 35 (Feb. 22, 1988); *cf. A.G. Becker, Inc. v. Board of Governors of Fed. Res. Sys.*, 519 F. Supp. 602, 604 (D.D.C. 1981), *rev'd*, 693 F.2d 136 (D.C. Cir 1982), *rev'd sub nom., Securities Industry Ass'n v. Board of Governors of the Fed. Reserve Sys.*, 468 U.S. 137 (1984) (discussing placement activities of banks in commercial paper markets). *See also Long-Term Credit Bank of Japan Looks to Become Private Placement Agent*, 13 Corp. Fin. Week (Mar. 23, 1987).

Until Board of Governors of the Federal Reserve System, *Statement Regarding Determination Not to Initiate Enforcement Action* (Sept. 26, 1980) (Bankers Trust), it was generally assumed that the Glass-Steagall Act barred banks (and bank holding companies) from acting as intermediaries in private placements. *See also* Staff of the Board of Governors of the Federal Reserve System, *Commercial Bank Private Placement Activities* 86-87 (1977).

[63] Bensman, *supra* n. 11, at 19. Three commercial banks were included in the top ten placement agents for 1987. *Id.* According to the *Investment Dealers' Digest*, the top ten placement agents in 1987, and the amounts of securities placed (in billions) were Salomon Brothers Inc, $14.9; The First Boston Corp., $11.5; Drexel Burnham Lambert Incorporated, $11.4; Goldman, Sachs & Co., $11.3; Shearson Lehman Hutton Inc., $10.1; Merrill Lynch, Pierce, Fenner & Smith, Inc., $9.3; Bankers Trust Company, $9.0; Morgan Stanley & Co., Incorporated, $7.2; Paine Webber Incorporated, $7.2; and Morgan Guaranty Trust Company of New York, $6.8. *See* Bensman, *supra* n. 11, at 19.

[64] Picker, *supra* n. 9, at 33.

[65] Neustadt, *Banks Take Big Share of Private Financing Market*, Am. Banker 10 (Mar. 21, 1988) (commercial banks strongest in asset-backed securities, private certificates of deposit and straight debt, and weakest in acquisition-related transactions). *See also* Albert, *Banks Sell Notes Backed by Associated Grocers' Assets*, Am. Banker 30 (Feb. 10, 1988).

[66] The United States Court of Appeals for the District of Columbia Circuit ruled, in a case involving a bank's placements of commercial paper, that the Glass-Steagall Act's prohibition of underwriting by banks does not prevent agency private placements. *Securities Industry Ass'n v. Board of Governors of the Fed. Reserve Sys.*, 807 F.2d 1052 (1986), *cert. denied*, 107 S. Ct. 3228 (D.C. Cir. 1987). *See also* Comptroller Staff No-Objection Letter No. 87-4 (May 19, 1987); Comptroller Staff No-Objection Letter No. 87-3 (March 24, 1987); S. 1886; 100th Cong., 2d Sess., 134 Cong. Rec. S3360-79 (1988); H.R. 5094, 100th Cong., 2d Sess., H.R. Rep. No. 100-822, Part 1, 1-99. *Cf.* H.R. Rep. No. 100-822, Part 2, 100th Cong., 2d Sess. (1988) (version of H.R. 5094 favorably reported by Committee on Energy and Commerce).

[67] *See* Monahan, *Trading in Private Placements: Secondary Market Liquidity and Volume are Increasing*, Investment Dealers' Digest 5 (Apr. 26, 1983). As indicated below, the secondary market for privately placed debt securities is well established, while the secondary market for private equity is relatively small.

Published data regarding the secondary market for privately placed securities is almost completely unavailable. Much of the following discussion is based, therefore, on information compiled by the Commission's staff in a series of interviews with market participants. *See supra* n. 17.

[68] Footnote in original omitted.

[69] Committee on Developments in Business Financing of the Section of Corporation, Banking and Business Law of the American Bar Association, *Resale by Institutional Investors of Debt Securities Acquired in Private Placements*, 34 Bus. L. 1927, 1931 (July 1979) (hereinafter "Committee"). "The secondary market for privately placed debt securities provides to institutional investors, and to dealers in such securities, a market place for the offering and resale of substantial amounts of such securities on the basis of quality and yield." *Id.* at 1937.

Volume in the secondary market appears to have increased significantly in the mid-late 1970s. *See generally* Monahan, *supra* n. 67; *Raising More Cash in Private Placements*, Business Week 96 (Oct. 27, 1975) (forty-four percent of 200 institutions surveyed indicated they had bought or sold privately placed securities in the past year). In earlier periods, the secondary market for privately placed securities was not considered a liquid market. E. Altman, *supra* n. 18, at 4-22; Lund, *supra* n. 4, at 122; Shapiro and Wolf, *supra* n. 8, at 104; Corey, *supra* n. 8, at 97. The resale market became more liquid in the mid-late 1970s, through no systemic changes occurred in the private market during this period. *See* Committee, *supra* at 1931; Monahan, *supra* n. 67 at 5.

[70] *See, e.g.*, Monahan, *supra* n. 67 at 6; Market Participants, *supra* n. 17.

[71] Market Participants, *supra* n. 17. Privately placed preferred stock is resold less frequently than debt but more frequently than common equity. *Id.*

[72] *Id.* Currently, the nationally recognized statistical rating organizations include Moody's Investor Services; Standard & Poor's Corporation; Duff & Phelps, Inc.; Fitch Investor Services, Inc.; and McCarthy, Crisanti & Maffei, Inc.

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.*

[80] Committee, *supra*, n. 69, at 1931-32; Market Participants, *supra*, n. 17.

[81] Market Participants, *supra* n. 17.

[82] *Id.*

may prompt an institution to sell a portion of its private portfolio at that time.[83] Portfolio and asset management, including matching assets and liabilities, responding to interest rate fluctuations and reacting to deteriorations in credit quality, also motivates institutions to sell in the secondary market.[84] Resales in the secondary market reportedly range from $500,000 to $20 million per transaction.[85]

Decisions to buy privately placed debt securities in the secondary market are reported to be "influenced particularly by the differences between the yields in the secondary market for such securities and for other debt securities, as well as by the relatively more advantageous redemption and sinking fund provisions of many privately placed securities." [86]

Intermediaries, such as investment and commercial banks, are almost always involved in resales of privately placed securities, although direct resales occasionally do occur.[87] While the intermediary sometimes acts on an agency basis, it usually operates on a principal basis. Resales generally are intermediated by the original placing agent.[88]

IV. Institutional Sales Under the Federal Securities Laws

The Congress and the Commission historically have recognized the ability of professional institutional investors to make investment decisions without the protections mandated by the registration requirement of the Securities Act. The Commission has not until now, however, formally addressed the difference between the institutional and public resale markets. The institutional resale market for restricted securities has evolved to a point where its existence should be acknowledged.

Proposed Rule 144A could have a significant impact on both the primary and secondary domestic markets for unregistered securities of reporting as well as nonreporting issuers.[89] Removing uncertainties as to the legitimacy of resales to institutional buyers by providing a safe harbor from registration could permit some transactions to take place that otherwise might not occur. Such transactions might include resales by persons that purchased securities privately with a view to their immediate resale to a number of institutions. Providing a framework in which institutional resales could be made freely may increase the efficiency of the private placement market. Liquidity in the market may increase,[90] not only as the result of increased efficiency, but also as a consequence of the resale provisions of proposed Regulation S.[91] The potential increase in efficiency and liquidity could significantly lower the discount commonly associated with private placements,[92] which in turn may attract an increasing number of issuers to the private placement market.[93]

The Rule may have significant implications for offerings by foreign issuers. Foreign issuers who previously may have foregone raising capital in the United States due to the compliance costs and liability exposure associated with registered public offerings, and the costs of financing inherent in placing restricted securities, may find private placements in the United States a more viable capital-raising option as a result of the combined effect of proposed Rule 144A and proposed Regulation S. Greater participation by foreign issuers in the U.S. capital market also would have the benefit of reducing the costs borne by U.S. institutional investors that wish to invest in foreign securities and are compelled at present to go overseas to obtain such securities. Moreover, U.S. intermediaries who may have lost business to foreign competitors simply because such securities may be available only offshore may be afforded more opportunities to participate in the internationalization of investment strategies.

While the Commission recognizes that a substantial institutional resale market currently exists, it anticipates that the development under Rule 144A of more formal, active trading markets will raise questions as to the effect of institutional markets on the efficiency and liquidity of the public trading markets. Those consequences need to be understood in considering adoption of Rule 144A, and, if the Commission determines to proceed, in determining whether to adopt the three tiers of the proposed Rule as a package, separately at different points in time, or in some combination.

The Commission anticipates that resales made in reliance on Rule 144A, whether executed on proposed closed systems such as PORTAL or SITUS [94] or elsewhere, would be used principally for transactions involving debt securities, preferred stock or common equity securities of a class not already publicly traded in the United States. While the qualified institutional buyer and fungible securities tiers of the Rule would be available for transactions in securities that are fungible with securities publicly traded in the United States, the Commission does not expect that Rule 144A would give rise to any significant volume of private transactions in classes of publicly traded securities. That is not currently the case,[95] and, notwithstanding the potential for increased efficiency in the private resale market and the ability to avoid costs and delays associated with registration, it may not be financially advantageous in the future for companies to sell securities in a market that was comparatively limited in its depth and liquidity.

Nonetheless, the Commission requests comment on the likelihood that an active, liquid private market will develop alongside a public market for the same class of securities in the United States. If such a development is viewed as likely, comment is requested on the nature of such markets, the consequences to the liquidity and efficiency of the public market for such securities, and whether any steps should be taken to prevent such a development. For example, should reliance on Rule 144A be precluded with respect to any class of securities that is registered

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[83] *Id.*

[84] *Id.*; *see also* Committee, *supra* n. 69, at 1933 (increase liquidity, create or use capital gains or losses, diversify portfolios).

[85] Market Participants, *supra* n. 17.

It has been reported that, in the secondary market for privately placed debt, "the credit quality of the debt securities being sold, their yield to maturity and the extent to which such yield is or may be affected by redemption provisions, are much more important factors in establishing resale prices than is the identity of the particular issuer or transient economic factors affecting the current market prices of its common stock." Committee, *supra* n. 69 at 1932, *citing* Exchange Act Release No. 15220 (Oct. 16, 1978) [43 FR 47538]. Credit quality and yield appear still to be critical elements in the pricing of debt securities, at least with respect to investment grade debt.

[86] Committee, *supra* n. 69, at 1933.

[87] Market participants, *supra* n. 17. *See also* Kleinfield, *Prudential to Sell Pieces of Its Private Placements*, The New York Times D3 (Aug. 11, 1988).

[88] *Id.*

[89] Issuers in the "non-reporting" category would include start-up companies and foreign issuers.

[90] The perception among investors of illiquidity in the private placement market has been cited as a reason why some investors avoid the market. Market Participants, *supra* n. 17.

[91] Proposed Regulation S (17 CFR 230.901–230.906), Securities Act Release No. 6779 (June 10, 1988) (53 FR 22661). The resale safe harbor of Rule 906 of proposed Regulation S, which allows persons other than issuers or underwriters to sell specified unregistered securities on foreign securities exchanges without imposing resale restrictions, should provide significantly more liquidity for restricted securities of foreign issuers.

[92] *See supra* n. 44.

[93] Market Participants, *supra* n. 17. For example, U.S. issuers who now raise capital through the international capital market might instead elect to offer their securities through private placements in the United States.

[94] *See infra* n. 191.

[95] *See supra* n. 43.

under the Securities Act or the Exchange Act? Comment also is requested on the likelihood that arbitrage would occur between the public and private markets for common stock, if dual markets were to develop; whether such arbitrage would be beneficial or harmful to the U.S. markets; if harmful, how it might be discouraged, and if beneficial, how it might be encouraged? Commenters should indicate whether their responses to the above questions would differ depending on whether the qualified institutional buyer tier of proposed Rule 144A, the fungible securities tier, or both were adopted.

The Commission also requests comment as to whether the risks of market manipulation and insider trading will increase significantly enough with the evolution of a more active institutional market that the Commission should permit such a market to develop only in a more formalized structure subject to surveillance, Commission oversight, and transaction reporting requirements.

The Commission also anticipates that proposed Rule 144A will facilitate, and thereby encourage, dealers' purchases of securities, particularly foreign securities, either in primary offerings or secondary transactions, with a view to resale in the United States. The Commission requests comment on the appropriateness, and the potential consequences, of the use of the Rule to exempt from registration such resales to institutions purchasers.

The Commission also recognizes that, by increasing the efficiency of the resale market for "restricted securities," issuers, particularly foreign issuers, that eventually might have chosen to register their securities for public sale in the United States, may forego registration and still have the benefits of access to the U.S. markets. Market participants have suggested that foreign issuers choosing to sell securities publicly in the United States do so for reasons not directly related to capital-raising needs, such as obtaining name recognition in the U.S. capital markets. The Commission requests comment on the likelihood that adoption of any of the three tiers of proposed Rule 144A, or some combination of the three tiers, might diminish the number of foreign issuers that eventually would choose to make a public offering in the United States. Similarly, how would the adoption of any or all of the three tiers affect the process by which domestic issuers typically first access the private market and then graduate to registered public offerings?

To the extent that an active institutional trading market continues to evolve, the trading market interest, both institutional and retail, in the securities of the issuer is likely to increase. In such case, the potential for "leakage" into the retail market would be greater, particularly in the case of common equity securities. Under section 12(g) of the Exchange Act, the public markets would be protected in the case of domestic issuers because reporting obligations generally will be incurred when any class of equity securities is held by 500 or more persons.[96] In the case of foreign securities, however, under current rules, there would be no such protection because Rule 12g3–2(b) [97] would permit the securities to be held by any number of shareholders so long as the securities were not quoted in NASDAQ or listed on U.S. securities exchanges. Rule 144A can thus be expected to create the potential for greater trading in foreign securities in the United States. In addition, the proposed changes to rule 144, which will in many cases telescope the required holding period for securities, could further accelerate this development. In light of this potential, the Commission requests comment on the appropriateness of continuing the exemption provided by Rule 12g3–2(b) for issuers whose securities are widely held by non-institutional investors, if proposed Rule 144A (particularly the qualified institutional buyer tier), the proposed change to Rule 144 or both were adopted.

A. Historical Treatment of Institutions

1. Legislative History

The Securities Act was remedial legislation designed "to protect the investing public and honest business." [98] The "investing public" intended to benefit from the registration provisions of the Securities Act was unsophisticated, individual investors.[99] Despite measurable institutional presence in the capital markets,[100] Congress concentrated on the protection of individuals.[101]

James Landis, a principal draftsman of the Securities Act and the second Chairman of the Commission, recalled that the draftsmen believed that "[t]he sale of an issue of securities to insurance companies or to a limited group of experienced investors, was certainly not a matter of concern to the Federal government." [102] Writing at the same time as Landis, the Commission itself stated that the 1933 Congress imposed upon the industry "standards of conduct * * * basic to any proper relationship to *public* investors." [103]

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[96] 15 U.S.C. 78*l*(g). Section 12(g) requires issuers to file reports under the Exchange Act if they have assets of over $1 million or a class of equity securities held of record by 500 or more persons. Rules 12g–l under the Exchange Act (17 CFR 240.12g–l) exempts issuers from this obligation if they have total assets not exceeding $5 million.

[97] 17 CFR 240.12g3–2(b).

[98] S. Rep. No. 47, 73rd Cong., 1st Sess. 1 (1933) (hereinafter "Senate Report"):

> The aim [of the legislation] is * * * to protect honest enterprise, seeking capital by honest presentation, against the competition afforded by dishonest securities offered to the public through crooked promotion; * * * to bring into productive channels of industry and development capital which has grown timid to the point of hoarding; and to aid in providing employment and restoring buying and consuming power.

See generally J. Seligman, *The Transformation of Wall Street* 1–72 (1982).

[99] *See infra* nn. 101, 102.

[100] *See Proposed Amendments to the Securities Act of 1933 and to the Securities Exchange Act of 1934: Hearings on H.R. 4344, H.R. 5065, and H.R. 5832 Before the House Comm. on Interstate and Foreign Commerce*, 77th Cong., 1st Sess. pt. II, 586 (1941) (statement of Commissioner Purcell):

> There seems to be practically no statistical information on private placements prior to 1932. However, * * * the private placement is by no means a novelty, putting in its appearance coincident with the passage of the Securities Act * * *. [I]t appears that in a good many instances subsequent to 1907, and prior to 1933, the insurance companies did in fact purchase securities in substantial blocks directly from issuers.

See also 1 SEC, *Institutional Investor Study Report*, 59 (1971): ("The stock market boom of the 1920's was accompanied by a rather dramatic increase in the institutional share of the market, as investment companies in particular increased their holdings."); *id.* at 58 ("[T]here was greater institutional participation in the 1923–29 boom period, particularly among investment companies, than either before or after 1945 * * *"); Kuhn, *supra* n. 8, at 84 ("[M]any corporations * * * have sold their securities privately. The larger institutions in general have been the principal purchasers of such issues").

[101] References to investors in the legislative history of the Securities Act are to "the poor woman who ha[d] a little money to invest" (77 Cong. Rec. 2938 (1933) (statement of Rep. Beck)), "poor men and women who turned over their live savings" (*id.* at 2942 (statement of Rep. Cannon)), and "widows who owned Liberty bonds, having invested the accumulations of a lifetime" (*id.* at 2983 (Statement of Sen. Fletcher)), not to sophisticated institutions. Speaking of the "rank and file of the people" who "possess stocks and bonds," Representative Rayburn concluded that "[m]illions of citizens" had been "swindled into exchanging their savings for worthless stocks." 77 Cong. Rec. 2918. Ferdinand Pecora's account of the exhaustive hearings conducted by the Senate Committee on Banking and Currency dealt solely with the abuses suffered by individual investors. *See* F. Pecora, *Wall Street Under Oath* (1939).

[102] Landis, *The Legislative History of the Securities Act of 1933*, 28 Geo. Wash. L. Rev. 29, 37 (1959).

[103] SEC, *25th Annual Report* xviii (1959) (emphasis added). *Cf.* SEC, *18th Annual Report* 1 (1953) (emphasis added): "[T]he prospectus, which must be furnished to prospective investors at or before delivery of the security, effectually brings the prescribed disclosure directly to the attention of the *individual* investor."

Two early bills introduced in the Congress exempted "isolated transactions" in securities, and it was suggested that the proposed legislation should be revised "to exempt from its provisions all types of securities which are not customarily sold to the small investor." [104] This wish was broadly consistent with the developing Congressional decision to "carefully exempt[]" from the application of the Securities Act those "types of * * * securities transactions where there is no practical need for its application or where the public benefits are too remote." [105] H.R. 5480 deleted the isolated transactions exemption and in its place exempted trading transactions [106] as well as private placements; that is, "[t]ransactions by an issuer not with or through an underwriter." [107] A clarifying amendment later added the language "and not involving a public offering" to the latter exemption. This was the form in which the exemption eventually became law.

As Manuel Cohen later explained, this "private placement" exemption had its roots in transactions with institutions that had no practical need for registration protection:

> Private placements had their beginnings and early development in the negotiated sale of specially tailored debt securities to a limited number of large institutional investors who were in a position to insist upon and to receive more information than that provided by registration and to require such protective covenants and restrictions which, together with their ability to supervise constantly and to take appropriate action instantly, supported the view that such offerings were non-public in character for which the registration provisions were probably unnecessary.[108]

In 1934, the phrase "not with or through an underwriter" was eliminated so that the exemption would cover "transactions by an issuer not involving a public offering." The conference report explained that no substantive change was intended:

> The Commission has recognized by its interpretations that a "public offering" is necessary for "distribution." Therefore, there can be no underwriter within the meaning of the act in the absence of a public offer and the phrase eliminated in the second clause is really superfluous.[109]

In 1980, Congress added section 4(6) to the Securities Act.[110] Section 4(6) provides an exemption from registration for certain offers or sales made by an issuer solely to accredited investors[111] without general solicitation.[112] Congress stated in the Report of the Committee sending H.R. 7554 to the House Floor that the "accredited investor" concept is "based on the assumption that accredited investors are sophisticated and able enough to protect their own financial interests without regulatory assistance." [113]

2. Judicial Interpretation

In considering the applicability of the registration provisions of the Securities Act, the courts have focused on the need of investors for the information provided by registration. In *SEC v. Ralston Purina Co.*,[114] the seminal Supreme Court construction of section 4(2) of the Securities Act,[115] the court considered an offering to "key employees," a category defined broadly enough by the company to include many blue collar workers. The company's private placement claim was rejected, the Court reasoning as follows:

> Since exempt transactions are those as to which "there is no practical need for [the registration provisions'] application," the applicability of section 4([2]) should turn on whether the particular class of persons affected needs the protection of the Act. An offering to those who are shown to be able to fend for themselves is a transaction "not involving any public offering." [116]

Subsequently, the lower courts attempted to implement the Supreme Court's directive to "focus * * * on the need of the offerees for the protections afforded by registration." [117] In this connection, "courts seem never to have doubted that an institutional investor, such as a life insurance company, is sophisticated, since the institution undoubtedly employs investment analysts who are able to ferret out all relevant information and who then carefully consider such information before approving a proposed investment." [118]

Case law dealing specifically with resales to institutional investors is sparse. A notable case holding that institutions are able to "fend for themselves" as envisaged by *Ralston Purina* is *The Value Line Fund, Inc. v. Marcus*, [119] which involved a dispute between a mutual fund and the issuer's principal shareholder and president, as well as his brokerage firm. The principal shareholder had offered stock to several mutual funds, including the plaintiff, through the broker-dealer. After the purchase was made, the stock price declined, whereupon the plaintiff sued for rescission, alleging violations of section 5. The court, however, ruled that the offering was private because all of the offerees "were sophisticated, knowledgeable, experienced institutional investors with great resources, and plainly were 'able to fend for themselves'." [120] Since "[t]he term

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[104] Henderson & Dean, Memorandum on H.R. 4314 Submitted to Rep. Rayburn 2 (Apr. 4, 1933), *reprinted in* I SEC, *Legislative History of the Securities Act of 1933* at tab 18 (available in the SEC library).

[105] H.R. Rep. No. 85, 73rd Cong., 1st Sess. 5 (1933).

[106] *See* 15 U.S.C. 77d(1) (1982), exempting "transactions by any person other than an issuer, underwriter, or dealer."

[107] H.R. 5480, 73 Cong., 1st Sess. section 4(1) (1933).

[108] Cohen, *Federal Legislation Affecting the Public Offering of Securities*, 28 Geo. Wash. L. Rev. 119, 142 n.64 (1959). *Accord*, Kuhn, *supra* n. 8 ("From an institutional viewpoint, the purpose of the Securities Act is primarily to protect the small investor—institutions do not need such protection).

[109] H.R. Report No. 1838, 73d Cong., 2d Sess. 41 (1933). In 1964, this language, originally part of Section 4(1), became Section 4(2).

[110] *See* Small Business Issuers' Simplification Act of 1980, Pub. L. 96-477, section 602, 94 Stat. 2275, 2294 (codified at 15 U.S.C. 77d(6) (1982).

[111] The definition of accredited investors for this purpose included certain individuals.

[112] According to the Commission, "the rationale underlying the adoption of section 4(6) is that financial institutions and other sophisticated investors purchasing in a small private offering are able to 'fend for themselves'." Securities Act Release No. 6256 (Nov. 7, 1980).

[113] H.R. Rep. No. 1341, 96th Cong., 2d Sess. 21 (1980).

[114] 346 U.S. 119 (1953).

[115] 15 U.S.C. 77d(2).

[116] 346 U.S. at 125. Thus, at least in the case of "the larger institutional investor," *Ralston Purina* excuses registration "for obvious reasons." Steffen, *the Private Placement Exemption: What To Do About a Fortuitous Combination in Restraint of Trade*, 30 U. Chi. L. Rev. 211, 220 (1963). "It seems almost tautological to say that persons possessing sufficient knowledge and experience in financial and business matters, so that they are capable of evaluating the risks of an investment, are less in need of the protection of the [A]ct than persons who are not so endowed." Borton & Rifkind, *Private Placement and Proposed Rule 146*, 25 Hastings L. J. 287, 305 (1974).

[117] *Ralston Purina*, 346 U.S. at 127. *See, e.g., General Life of Missouri Investment Corp. v. Shamburger*, 546 F.2d 774, 781 n.10 (8th Cir. 1976); *Stoppelman v. Owens*, [1984 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶91,511, at 98,579-80 (D.D.C. 1984) ("prohibited distribution or resale occurs only when the ultimate purchaser of the security is a person or entity that [needs] the information contained in a registration statement").

[118] Note, *Reforming the Initial Sale Requirements of the Private Placement Exemption*, 86 Harv. L. Rev. 403, 415 (1972-1973). *Cf.* Kessler, *Private Placement Rules 146 and 240—Safe Harbor?*, 44 Fordham L. Rev. 37, 40 (1975-1976):

> In this type of placement, the investors, ordinarily all sizeable corporations whose decisions are guided by financial experts, have little need for the protections of the Securities Act. They are well able to take care of themselves, no matter how large or small their investment, or how many investors are included in the group.

See also Comment, *Institutional Investment Through Private Placement of Corporate Securities*, 53 Colum. L. Rev. 804, 807 (1953) ("institutions welcomed the opportunity to assume direct responsibility for their own protection").

[119] (1964-1966 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶ 91,523 (S.D.N.Y. 1965) (MacMahon, J.).

[120] *Id.* at 94,970. Additionally, the investors in this case all had access to information about the issuer, an important factor in the courts' analyses of

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'distribution in section 2(11) (of the Act) is substantially equivalent to 'public offering' in section 4([2])," [121] the court held that there was no "distribution." Given the absence of a distribution, there was no "underwriter" within the meaning of section 2(11) of the Act, [122] an exemption from registration was available under Section 4 of the Act, and there was no sustainable claim that section 5 had been violated. [123]

3. Commission Treatment of Institutions; State Laws

The Commission publicly has acknowledged the existence and legality of the private resale market since at least 1959, when it first proposed Rule 155. [124] Rule 155 dealt with convertible and converted securities. Adopted in 1962, it made clear that the ultimate public offering of a security issued upon conversion was subject to section 5 of the Act. [125] What matters for present purposes, however, was the recognition by the Commission in paragraph (b) of the rule that "the initial, and intermediate, holder" of the convertible security, or of the converted security, is not an "underwriter," assuming that the holder did not acquire the security with a view to "distribution" and is not participating in a "public offering." [126]

In the view of one commentator, this was a signal development in that it justified the private placement secondary market:

> [T]o have it declared that the intial placee, and "any intermediate" placee, may make such private sales as they please, was a positive gain * * *. It is true the Rule applies in terms only to convertible and converted securities, but, that being so, there is no apparent reason why it should not apply, a fortiori, to any security. [127]

Rule 155 was rescinded prospectively upon the adoption of Rule 144 [128] and rescinded altogether in 1979. [129]

In June 1988, the Commission addressed the needs of institutional investors when it issued for comment a proposed rule [130] that would exempt from the broker-dealer registration requirements [131] foreign broker-dealers that engage in securities transactions only with specified U.S. institutional investors under limited conditions. Such activities would have to be conducted through a U.S. affiliate of the foreign broker-dealer. For purposes of the proposed rule, a U.S. institutional investor was defined as an entity that, *inter alia*, was described in Rule 501(a) (1), (2), or (3) of Regulation D under the Securities Act [132] and that, with the exception of registered broker-dealers, had total assets in excess of $100 million. While not treated as an accredited investor under Regulation D, a registered investment adviser also would be included as a U.S. institutional investor within the proposed rule if it had $100 million in assets under management. Further, if a registered investment company itself did not have total assets in excess of $100 million, it could still qualify as a U.S. institutional investor if it was part of a "family" (as defined) of investment companies that had total assets in excess of $100 million.

Exemptions for sales to institutional investors, whether by issuers or by third parties, are a common provision of state securities laws. All blue sky statutes that provide for registration of securities exempt institutional resales to some extent. [133] The draftsmen's commentary to the Uniform Securities Act states:

> The obvious justification for this exemption is that institutional investors and broker dealers are "sophisticated" buyers who do not need the protection of registration. At the same time they do have the protection of the antifraud provisions of §§ 101 and 410(a)(2). [134]

B. Present Legal Basis for Institutional Sales

Section 4(2) of the Securities Act provides an exemption from registration for "transactions by an issuer not involving any public offering." [135] Within the parameters of section 4(2), Rule 506 of Regulation D [136] provides a non-exclusive safe harbor for offerings made in accordance with its terms. This rule imposes a filing requirement, prohibits general solicitation, and requires the provision of information in circumstances where persons other than accredited investors are among the purchasers. In general, private placements with large institutions are made in reliance on section 4(2) rather than on the safe harbor provisions of Regulation D. [137]

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private offerings: "Marcus clearly gave Value Line access to whatever information it wished, and it is plain that any of the other offerees would have been in a position to insist on complete access to information." *Id.*

[121] *Id.* at 94,969 citing *Gilligan, Will & Co. v. SEC*, 267 F.2d 461, 466–68 (2d Cir.), *cert. denied*, 361 U.S. 896 (1959).

[122] 15 U.S.C. 77b(11).

[123] *See The Value Line Fund*, Fed. Sec. L. Rep. ¶ 91,523 at 94,969, 94,972; *infra* text accompanying n. 144. *See also Neuwirth Investment Fund, Ltd. v. Swanton*, [1975–1976 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 95,372 (S.D.N.Y. 1975), which also involved resales to institutional investors; specifically, to two registered investment companies. The court basically adhered to the *Ralston Purina-Value Line* approach, considering the following factors in determining the availability of section 4(1): "the number of offerees, the offerees' access to relevant information and the purchaser's intent at the time of purchase." The offerees numbered no more than four. Moreover, as in *Value Line*, they "possessed enough sophistication to demand, and enough leverage at the bargaining table to receive, all information relevant to make a fully informed decision on whether or not to buy." *Id.* at 98,862.

[124] *See* Securities Act Release No. 4162, [1957–1961 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 76,677 (Dec. 2, 1959). Rule 155 was revised and reproposed in Securities Act Release No. 4248, [1957–1961 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶ 76,710 (July 14, 1960).

[125] *See* Securities Act Release No. 4450 [1961–1964 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶ 76,821 (Feb. 7, 1962).

[126] 17 CFR 230.155(b) (rescinded 1972).

[127] Steffen, *The Private Placement Exemption: What To Do About a Fortuitous Combination in Restraint of Trade*, 30 U. Chi. L. Rev. 211, 228 (1963).

[128] *See* Securities Act Release No. 5223, [1971–1972 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 78,487, at 81,064 (Jan. 11, 1972) (37 FR 591).

[129] *See* Securities Act Release No. 6032, [1979 Transfer Binder] Fed. Sec. L.Rep. (CCH) ¶ 81,992 (Mar. 5, 1979) (44 FR 15610).

[130] Proposed Rule 15a–6(a) [17 CFR § 240.15a–6], proposed in Exchange Act Release No. 25801 (June 14, 1988) (53 FR 23645).

[131] Section 15(b) of the Exchange Act (15 U.S.C. 78o(b))

[132] 17 CFR 230.501(a)(1), (2) or (3).

[133] Section 402(b)(8) of the Uniform Securities Act of 1956 provides an exemption from registration for "any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity."

Section 402(b)(8) has been adopted, or substantially adopted with modifications, in 38 jurisdictions. In addition, those jurisdictions which have not adopted that section all have some provision for an exemption for sales to some classes of institutional inventors. Some jurisdictions have expanded the exemption to include sales to certain corporations and non-profit organizations. The Uniform Securities Act of 1985, which has been adopted by three jurisdictions, contains an exemption similar to that in the 1956 Act. Section 402([10) of the 1985 Act provides an exemption for "an offer to sell or sale of a security to a financial or institutional investor or to a broker-dealer." Unif. Sec. Act (1985) 402(10). Section 101(5) of the 1985 Act defines the term "financial or institutional investor" as including, in addition to those institutions enumerated in the 1956 Act, "an employee pension, profit-sharing, or benefit plan if the plans has total assets in excess of $5,000,000 or its investment decisions are made by a named fiduciary as defined in the Employee Retirement Income Security Act of 1974, that is either a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, a depositary institution or an insurance company."

[134] L. Loss & E. Cowett, *Blue Sky Law* 367, draftsmen's commentary to Uniform Securities Act, 402(b)(8) (1958).

[135] 15 U.S.C. 77d(2).

[136] 17 CFR 230.506.

[137] 17 CFR 230.501–230.506; *see* Market Participation, *supra* n. 17.

No specific statutory exemption exists for non-public offerings by persons other than issuers. Instead, section 4(1) of the Securities Act provides that the registration requirements of section 5 shall not apply to "transactions by a person other than an issuer, underwriter or dealer." [138] The term "underwriter" is defined in section 2(11) of the Securities Act to include, with certain exceptions not relevant here,

> any person who has purchased from an issuer or with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking * * *.[139]

With respect to transactions by a dealer,[140] section 4(3) of the Securities Act provides an exemption, with certain exceptions. The exemption is not available if the dealer is selling securities within 40 days after "the first date upon which the security was bona fide *offered to the public* by the issuer or by or through an underwriter * * *."[141] Nor is it available with respect to "transactions as to securities constituting the whole or a part of an unsold allotment to or subscription by such dealer as a participant in the *distribution* of such securities by the issuer or by or through an underwriter." [142]

In the absence of a distribution, a non issuer transactions is exempt from the registration requirements of section 5; a seller who is a dealer may use the section 4(3) exemption,[143] and a non-dealer may use the section 4(1) exemption. The absence of a "distribution" can be determined in a variety of ways.[144]

The key to the analysis of proposed Rule 144A is that certain institutions can fend for themselves and that, therefore, offers and sales to such institutions do not involve a public offering. "The Commission has recognized by its interpretations that a 'public offering' is necessary for 'distribution.' " [145] Since the offering to eligible institutions under proposed Rule 144A is not public, no distribution takes place, and an exemption from registration would be available.

V. Proposed Rule 144A

A. General

Proposed Rule 144A sets forth a non-exclusive safe harbor from the registration requirements of section 5 of the Securities Act for the sale of securities to specified institutions by persons other than the issuer of such securities. The transactions covered by the safe harbor are those private transactions that on the basis of a few objective standards can be defined as outside the purview of section 5, without the necessity of undertaking the more usual analysis under sections 4(1) and 4(3) of the Securities Act. The Commission wishes to emphasize that proposed Rule 144A is not intended to preclude reliance on traditional facts-and-circumstances analysis to prove the availability of an exemption outside the safe harbor it provides.

The Rule would provide that, if its conditions were met, any person (other than the issuer or a dealer) who offered or sold securities would be deemed not to be engaged in a "distribution" and therefore not to be an "underwriter" within the meaning of secitons 2(11) and 4(1) of the Securities Act.[146] Similarly, if the conditions of the proposed Rule were met, a dealer would be deemed not to be a participant in the "distribution" of securities within the meaning of seciton 4(3)(C) of the Act, and the securities would be deemed not to have been offered "to the public" within the meaning of section 4(3)(A) of the Act.[147] The Rule, in effect, defines a class of transactions as outside the term "distribution." It does not, however, provide the exclusive means to establish the lack of a "distribution," and thus an exemption from the Securities Act registration requirements.[148] Each transaction would be assessed under the Rule indiviudually. The exemption for an offer and sale complying with the Rule would be unaffected by other transactions of the seller.

Nothing in the Rule would remove the neeed to comply with any applicable state law relating to the offer and sale of

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[138] 15 U.S.C. 77d(1).

[139] 15 U.S.C. 77b(11). Thus, in exempting specified trading transactions from registration under section 4(1) of the Securities Act, Rule 144(b) (17 CFR 240.144(b)) states that a person selling securities under the conditions specified in the rule "shall be deemed not to be engaged in a distribution of such securities and therefore not to be an underwriter thereof within the meaning of section 2(11) of the Act * * *."

[140] Under section 2(12) of the Securities Act (15 U.S.C. 77b(12), "(t)he term 'dealer' means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of trading in securities issued by another person." It thus encompasses both brokers and dealers, as defined in the Exchange Act. *See* sections 3(a)(4) and 3(a)(5) of the Exchange Act (15 U.S.C. 78c(a)(4), 78c(a)(5)).

[141] Section 4(3)(A) of the Act (15 U.S.C. 77d(3)(A)) (emphasis supplied); *see also* section 4(3)(B) (15 U.S.C. 77d(3)(B)), with respect to transactions taking place within 40 days after the effective date of a registration statement covering the securities or the first bona fide offering of those securities.

[142] Section 4(3)(C) of the Act (15 U.S.C. 77d(3)(C)) (emphasis supplied).

[143] *See* Throop & Lane, *Some Problems of Exemption Under the Securities Act of 1933*, 4 Law & Contemp. Prob. 89, 121 (1937).

[144] *See, e.g.*, Preliminary Note to Rule 144 (17 CFR 230.144): "In determining when a person is deemed not to be engaged in a distribution several factors must be considered."

[145] H.R. Rep. No. 1838, 73 Cong., 2d Sess. 41 (1934); *see supra* text accompanying n. 109; H.R. Rep. No. 85, 73d Cong., 1st Sess. 13–14 (1933) (affiliates are treated as issuers for purposes of the definition of underwriter in section 2(11) of the Securities Act, because a "redistribution" of outstanding stock in a "public offering may possess all the dangers attendant upon a new offering of securities."); *Gilligan, Will*, 267 F.2d at 466; Loss, *Fundamentals of Securities Regulation* 255 (2d ed. 1988); Whitney, *Rule 10b–6: The Special Study's Rediscovered Rule*, 62 Mich. L. Rev. 567 (1964) (also noting that the term "distribution" used in Rule 10b–6 under the Exchange Act is not limited to offerings required to be registered under the Securities Act); 1 L. Loss, *Securities Regulation* 551 (2d ed. 1961); Throop & Lane, *supra* n. 143, at 116–17.

The Commission stated in *In the Matter of Oklahoma-Texas Trust*, 2 SEC 764, 769 (1937), *aff'd.* 100 F.2d 888 (10th Cir. 1939), that "distribution, although not expressly defined in the [Securities] Act, comprises the entire process by which in the course of a public offering a block of securities is dispersed and ultimately comes to rest in the hands of the investing public." *See Securities Industry Ass'n v. Board of Governors*, 807 F.2d 1052, 1062–64 (D.C. Cir.) (construing the term "underwriting," as used in the Glass-Steagall Act, to mean a public offering, in reliance on Congress' understanding that, under the Securities Act, legislation enacted contemporaneously, a distribution, and thus an underwriting, involves a public offering), *rev'g* 627 F. Supp. 695, 709 (D.D.C. 1986) (ruling that "distribution" in the Securities Act does not mean only public offerings), *cert. denied*, 107 S. Ct. 3228 (1987). The district court opinion in that case had cited the Commission release adopting Rule 3b–9 under the Securities Exchange Act (17 CFR 240.3b–9 (1987)), which was subsequently invalidated by the United States Court of Appeals for the District of Columbia Circuit. *American Bankers Ass'n v. SEC*, 804 F.2d 739 (1986); *see* Exchange Act Release No. 22205 (July 12, 1985) (50 FR 28325, 28392 n. 58) ("Rule 3b–9 release"). In the Rule 3b–9 release, the Commission had stated that "the fact that an offering is exempt from registration pursuant to one of the exemptions specified in paragraph (b)(6) (of Rule 3b–9) does not necessarily mean that no 'distribution' has occurred as that term is used in the definition of 'underwriter' in section 2(11) of the Securities Act of 1933." 50 FR 28392 n. 58. Among other exemptions specified in paragraph (b)(6) of Rule 3b–9 was section 3(b) of the Securities Act (15 U.S.C. 77c(b)), which encompasses transactions that are public offerings. Footnote 58 of the Rule 3b–9 release should not be read as a Commission statement that a "non-public offering" can be a "distribution."

[146] *See* paragraph (b) of the Proposal. This formulation was used by the Commission in establishing Rule 144. *See* Rule 144(b) (17 CFR 230.144(b)), *supra* n. 139.

[147] *See* paragraph (c) of the Proposal.

[148] *See, e.g.*, Rule 144 under the Securities Act (17 CFR 230.144).

securities.[149] Similarly, the Rule does not affect the securities registration requirements of section 12 of the Exchange Act or the broker-dealer registration requirements of section 15(a) of the Exchange Act for a broker or dealer who effects private placement transactions.[150]

Resales made in reliance on proposed Rule 144A could only be made to the institutions specified in the three tiers of the Rule or to persons the seller reasonably believed were such institutions. Sales to individual investors could not be made in reliance on Rule 144A. Sales to individuals would continue to be subject to the traditional analysis under section 4(1) or 4(3) of the Securities Act.[151]

The Rule is not intended to eliminate or otherwise affect the availability of any exemption for resales under the Securities Act on which a seller might be able to rely.[152] Securities sold in reliance on Rule 144A would not be included in determining the amount of securities which could be sold by a person in compliance with the volume limitations in subsection (e) of Rule 144.[153]

There may be some concern regarding possible integration of an otherwise exempt transaction with resales under Rule 144A. In order to eliminate uncertainty in this area, the proposed Rule specifically provides that resales made in reliance on Rule 144A shall be deemed not to affect the availability of any exemption for the previous or subsequent sale of the securities by the issuer or any prior or subsequent holder.[154]

Foreign issuers may have concerns regarding inadvertent entry into the Exchange Act registration and reporting system if the proposed Rule is used to make resales in the United States. Rule 12g3–2(a) provides an exemption from the reporting requirements of section 12(g) of the Exchange Act for classes of securities of foreign private issuers held by fewer than 300 U.S. residents.[155] If that threshold is reached, Rule 12g3–2(b) under the Exchange Act at present provides an exemption from this obligation for a foreign private issuer if it furnishes to the Commission specified information it otherwise makes publicly available.[156] As noted above, the Commission is concerned that the availability of Rule 12g3–2(b) may be inappropriate if a large U.S. non-NASDAQ, non-exchange market develops for a foreign issuer's securities, and has requested comments on that issue.[157] Even if the Commission eventually were to determine to eliminate or limit the availability of Rule 12g3–2(b) in the case of substantial market activity, it would retain the power under section 12(h) of the Exchange Act [158] to exempt an issuer by order from, *inter alia*, the reporting requirements of section 12(g), where it finds such exemption appropriate and in the public interest. Thus, for example, the Commission could provide specific relief where a substantial market is shown to be composed largely of institutional holders.

B. The Three Tiers of the Rule

Proposed Rule 144A contains three tiers. The Commission solicits comment on adoption of each of the three separately and in any combination, as well as adoption of different tiers at different times.

The first, or qualified institutional buyer, tier would cover any securities of any issuer.[159] It would not require the seller to take any specific steps to prevent an unregistered distribution, other than taking reasonable steps to ensure that the buyer is aware that the seller may rely on the exemption from the Securities Act registration requirements provided by the Rule. This tier would, however, be limited to potential buyers that are very large institutions, long involved in the resale market for restricted securities, as to which there has been little concern with respect to section 5 implications. The breadth of the securities covered by this tier of the proposed Rule gives full effect to the concept that these large institutional investors are fully able to fend for themselves.

The second, or non-fungible securities, tier of the proposed Rule is less restricted as to potential purchasers, but more restricted as to the types of securities covered.[160] The securities covered would be non-convertible debt securities, non-convertible preferred stock, and securities issued by reporting companies. Historically, a wide range of institutions has been engaged in the private resale market for senior securities. These institutions may not need the protections attendant to registration under the Securities Act with respect to such senior securities. Furthermore, where the information required by the Exchange Act is publicly available, institutions of this broader class may be able adequately to fend for themselves even with respect to common equity securities.

The securities that could be sold under this tier of the proposal must be of a class that is not publicly traded in the United States. Given this requirement of non-fungibility, the securities would be less likely to leak into the public, retail, markets. With the general lack of a public market for the securities, it would not be difficult to identify and trace such securities in the event of leakage. Moreover, in the case of debt and preferred stock, the market is generally institutional. Thus, like the qualified institutional buyer tier of the proposed Rule, the non-fungible securities tier would not impose resale restrictions.

The third tier of the Rule would cover offers and sales of securities of a class that is publicly traded in the United States, to the same range of institutions covered by the non-fungible securities tier.[161] Like the non-fungible securities tier, the covered securities are limited to non-convertible debt, non-convertible preferred stock and securities issued by reporting companies. Given the greater likelihood for leakage of fungible securities into the retail markets and the greater difficulty in tracing that leakage, this tier of proposed Rule 144A would require the seller to take reasonable steps to prevent the purchaser from reselling the securities in the United States in an unregistered, non-exempt distribution.

C. The Qualified Institutional Buyer Tier

1. Qualified Institutional Buyers

The first tier of proposed Rule 144A would permit resales of any securities of any issuer to a class of institutional investors defined as "qualified institutional buyers." [162] Under the

[149] *See* Preliminary Note 3 of the Proposal. *See also supra* n. 133.

[150] 15 U.S.C. 78*l*, 78*o*(a), *See* Preliminary Note 2 of the Proposal. Likewise, the proposed Rule would have no effect on the application of Rule 10b–6 under the Exchange Act (17 CFR 240.10b–6) to an offer and sale of securities pursuant to Rule 144A "that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods." Rule 10b–6(c)(5) (17CFR 240.10b–6(c)(5)).

[151] *See supra* text accompanying nn. 138–144.

[152] *See* Preliminary Note 1 of the Proposal.

[153] *See* Rule 144(e)(3)(vii) under the Securities Act (17 CFR 230.144(e)(3)(vii)).

[154] *See* paragraph (e) of the Proposal.

[155] 17 CFR 240.12g3–2(a).

[156] 17 CFR 240.12g3–2(b). Information furnished pursuant to Rule 12g3–2(b) is not deemed "filed" with the Commission or otherwise subject to the liabilities of Section 18 of the Exchange Act (15 U.S.C. 78r).

[157] *See supra* text accompanying n. 96–97.

[158] 15 U.S.C. 78*l*(h).

[159] *See* paragraph (d)(1) of the Proposal.

[160] *See* paragraph (d)(2) of the Proposal.

[161] *See* paragraph (d)(3) of the Proposal.

[162] *See* paragraph (d)(1) of the Proposal.

proposal, resale would be permitted if the purchaser was a qualified institutional buyer or its nominee, or if the seller and any persons acting on its behalf reasonably believed that the purchaser was such an eligible buyer or its nominee. In determining whether a particular entity is a qualified institutional buyer, the seller and any person acting on its behalf would be permitted to rely on financial statements or other material filed with the Commission, unless the seller or any person acting on its behalf knew or had reason to believe that the buyer was not a qualified institutional buyer.[163]

Qualified institutional buyers are defined in the proposed Rule to include institutional buyers [164] that have total assets in excess of $100 million.[165] While the rule excludes corporations, partnerships, business trusts and charitable organizations formed for the purpose of acquiring the securities offered, the Commission is considering and requests comment on inclusion of such entities in the qualified institutional buyer tier because of their size. This tier of the Rule specifically includes investment advisers as eligible buyers. Eligibility is conditioned upon their having in excess of $100 million combined assets and assets under management.[166] Comment is requested as to whether registered investment advisers should be specifically included as qualified institutional buyers, and as to the appropriateness of the asset test proposed. Also included are investment companies that are part of a family of related investment companies that has aggregate total assets in excess of $100 million.[167] An entity also would be included if all of its equity owners were qualified institutional buyers.[168]

In defining a "qualified institutional buyer," the Commission has attempted to establish a level at which it can be confident that participating investors have extensive experience in the private resale market for restricted securities. In addition, the Commission is seeking to identify a class of investors that can be conclusively assumed to be sophisticated and in little need of the protection afforded by the Securities Act's registration provisions.

The $100 million threshold for assets or funds under management, moreover, follows that set forth in proposed Rule 15a–6 under the Exchange Act, which exempts from the broker-dealer registration provisions foreign broker-dealers doing business only with major institutional investors.[169] The proposed asset limitation in Rule 15a–6(a) is based on the view that direct U.S. oversight of foreign sales personnel might be of less significance where such personnel solicit only U.S. institutional investors with high levels of assets. The $100 million asset level, derived from the reporting standard of section 13(f) of the Exchange Act,[170] is designed to increase the likelihood that the institution would have prior experience in foreign markets that provided insight into the reliability and reputation of various foreign broker-dealers.

Comment also is requested on the appropriateness of the threshold proposed for identifying those institutions with the least need for the protection provided by registration. Should the treshold be lower (for example, assets of $50 million) or higher (assets of $150 million or $200 million)? Comment is further requested on whether the qualified institutional buyer tier should contain more stringent purchaser qualifications than those suggested in the proposal, such as including fewer categories of institutions, or imposing different asset tests for different types of institutional investors. Would a net worth test be preferable to an asset test, and if so, what level would be appropriate—$10–$25–$50–$100–million? Finally, comment is specifically requested as to whether a "reasonable belief" standard regarding the purchaser's qualifications is appropriate in this tier of the proposed rule.

2. Securities Covered

The qualified institutional investor tier of the proposed Rule would apply to any securities of any issuer. As drafted, this tier of the proposal would not require that buyers be provided with any information regarding the issuer of the securities sold. Comment is requested on whether the proposed Rule should require that an issuer undertake either in the terms of the security or by contract to provide upon request of the security holder basic information concerning the issuer. Commenters who believe that access to information should be required should also address what information should be required. Should the level of information be comparable to that required under Rule 15c2–11 of the Exchange Act,[171] or should more or less extensive information be required? Should an access requirement be limited to information the issuer provides to holders of its publicly traded securities, if any? The Commission also requests comments as to whether if access is to be mandated, there are other more efficient and less costly means of providing adequate information.

3. Resale Restrictions

Based on the sophistication and experience in the private resale market of the proposed class of qualified institutional buyers, this tier of the proposed Rule does not impose resale restrictions. It would require only that the seller or any person acting on its behalf take reasonable steps to ensure that each buyer is aware that the seller may rely on the registration exemption provided by Rule 144A.[172] It is the Commission's understanding that, under current industry practice, the obtaining of agreements as to the manner of resale is considered unnecessary in many cases where large institutional investors are involved, because they are sufficiently aware of the resale limitations on restricted securities and their potential liabilities under section 5 for improper disposition of such

[163] *See* paragraph (d)(1)(i) of the Proposal.

[164] "Institutional buyers" are eligible to purchase under the non-fungible securities and fungible securities tiers of the Proposal. *See infra* Sections V.D.1. and V.E.1. This term generally includes the types of institutional investors permitted to purchase from the issuer under Regulation D under the Act. The qualified institutional buyer tier omits the asset tests set by Regulation D for certain institutions because it provides its own asset tests.

[165] *See* paragraph (a)(2) of the Proposal. Under paragraph (a)(3) of the Proposal, "total assets" is generally determined in accordance with the provisions of Regulation S–X under the Act (17 CFR Part 210) and refers to the larger of the person's total assets or the total assets of the person and its consolidated subsidiaries.

[166] *See* paragraphs (a)(2)(ii) and (a)(3)(ii) of the Proposal. With respect to investment advisers registered under the Investment Advisers Act, and solely for purposes of the qualified institutional buyer tier, "total assets" includes any assets as to which the investment adviser, as an investment manager, exercises investment discretion, in addition to the total assets of the investment adviser. See paragraph (a)(3)(ii) of the Proposal.

[167] *See* paragraph (a)(2)(iii) of the Proposal.

[168] *See* paragraph (a)(2)(iv) of the Proposal.

[169] *See supra* text accompanying nn. 130–132. Proposed Rule 15a–6, however, does not include a "reasonable belief" standard as regards an institution's meeting the $100 million threshold.

[170] 15 U.S.C. 78m(f).

[171] 17 CFR 240.15c2–11. Information required under this rule would include, for non-reporting issuers, information regarding the issuer and its business, the issuer's most recent balance sheet and profit and loss and retained earnings statements for the last two years; or the information filed with the Commission pursuant to Rule 12g3–2(b) (*See supra* n. 156). In the case of foreign issuers, if information was mandated, use of financial statements prepared under accounting principles of foreign jurisdictions would be acceptable. Audited statements would not be required.

[172] *See* paragraph (d)(1)(ii) of the Proposal. See the discussion and solicitation of comments in Section V.E.3. below concerning the adequacy of that notice procedure.

securities. In such cases, therefore, buyers would be expected to take adequate steps to guard against a subsequent unregistered and non-exempt distribution of the securities sold under proposed Rule 144A without any policing by the seller.

Where the required notice was given, a seller's transaction would be protected by the safe harbor, notwithstanding any unregistered, *non-exempt* offer or sale by a purchaser in the United States. In such cases the reselling purchaser would violate section 5, but not the prior holder that sold in compliance with the safe harbor rule.

D. The Non-Fungible Securities Tier

1. Institutional Buyers

Institutions specified in the non-fungible securities tier of proposed Rule 144A as eligible "institutional buyers" include banks, broker-dealers, insurance companies, investment companies and certain employee benefit plans, and private business development companies.[173] Corporations, charities, and partnerships would be included to the extent that they had assets in excess of $5 million.[174] An entity also would be included if all its equity holders were institutional buyers.[175] Investment advisers are not specifically included, but would be eligible institutional buyers to the extent that they were corporations or partnerships with total assets over $5 million.[176] Comment is sought on the appropriateness of specifically including investment advisers with total assets over $5 million, or whether only investment advisers with some higher amount of total assets should be specifically included. Comment is also requested as to whether assets under management should be included in determining total assets for investment advisers. Finally, the Commission requests comment on whether there should be an asset test (*e.g.*, $10 million, $25 million) applicable to all institutional purchasers covered by this second tier.

The Commission currently has a proposal pending to add certain pension plans established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees to the list of accredited investors under the Regulation D.[177] The Commission plans to include in the list of institutional buyers in paragraph (a)(1)(i) of proposed Rule 144A those plans that ultimately are defined to be accredited investors for purposes of Regulation D.

As is the case with the qualified institutional buyer tier, the seller would be permitted to rely on the exemption provided by the non-fungible securities tier of the proposed Rule even if the buyer was not an eligible institutional buyer, provided that the seller and any person acting on its behalf reasonably believed that the purchaser was such an eligible person.[178] Comment is requested as to the appropriateness of this reasonable belief standard for the non-fungible securities tier.

2. *Securities Covered*

The availability of the non-fungible securities tier is limited to securities of a class that is neither quoted in an inter-dealer quotation system within the meaning of Rule 15c2–7(c) under the Exchange Act [179] nor listed on a national securities exchange registered under Section 6 of the Exchange Act.[180] This tier of the Rule also would not be available for securities issued by an open-end investment company, unit investment trust or face-amount certificate company that is registered under section 8 of the Investment Company Act. The second tier is thus limited to securities that are not publicly traded in the United States, but would cover securities that are publicly traded outside this country. American Depository Receipts and the underlying foreign securities would be viewed as separate classes of securities for purposes of the Proposed Rule. Comment is requested as to this proposed separate treatment.

In addition to being non-fungible, securities covered by the non-fungible securities tier must be either non-convertible debt securities or non-convertible preferred stock, or be issued by a company subject to the reporting obligations imposed under the Exchange Act.[181]

The current resale market for restricted securities largely involves debt and preferred stock. Such senior securities are commonly held by institutions, making resale into the retail markets less likely than with common stock. These securities also are generally issued in distinct classes or series, making it more likely that the securities can be traced in the event that leakage does occur.

The Commission requests comment on the appropriateness of including in the non-fungible securities tier all non-convertible debt securities and non-convertible preferred stock, including those debt or preferred securities that by their subordination or other terms trade more like common equity and less like senior securities. Is the need for issuer information so much greater in the case of non-investment grade debt and preferred stock that the rule should be limited to the more senior securities? Alternatively, recognizing that privately placed securities may not be rated, should this tier require that the issuer have outstanding at the time of the transaction securities rated investment grade by one or more nationally recognized statistical rating organizations and that the securities offered and sold in reliance on the Rule rank *pari passu* or senior to the issuer's investment grade securities?

In addition, common equity could be offered and sold in reliance on the non-fungible securities tier if it were issued by a reporting company. This requirement for the availability of information assures the broad range of institutions covered by the second tier will have access to the same issuer information that would have been made available in a registration statement under the Securities Act. To be eligible, issuers must have been subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act for a period of at least 90 calendar days immediately preceding the offer or sale, and have filed all reports required to be filed pursuant to those provisions for at least a year (or such shorter period that the issuer was required to file such reports).[182]

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[173] *See* paragraphs (a)(1)(i) and (a)(1)(ii) of the Proposal.

[174] *See* paragraph (a)(1)(iii) of the Proposal.

The term "institutional buyer" encompasses substantially the same institutions as those specified in Rule 215 and Regulation D under the Securities Act. Self-directed pension plans, which relate to individuals, are omitted.

[175] *See* paragraph (a)(1)(iv) of the Proposal.

[176] For purposes of the non-fungible securities tier (as well as the fungible securities tier), "total assets" is limited to the total assets of the person or of that person and any consolidated subsidiaries thereof, whatever is larger and does not include assets under management. *See* paragraph (a)(3) of the Proposal.

[177] Securities Act Release No. 33–6759 (March 3, 1988) [53 FR 7870].

[178] *See* paragraph (d)(2)(i) of the Proposal.

[179] CFR 240.15c2–7(c). This tier thus not only excludes securities quoted in an automated inter-dealer quotation system (NASDAQ), but also those securities quoted in the "pink sheets."

[180] 15 U.S.C. 78f. *See* paragraph (d)(2)(ii) of the Proposal.

[181] *See* Sections 13(a) and 15(d) of the Exchange Act [15 U.S.C. 78m, 78 (d) and the rules thereunder; paragraphs (d)(2)(ii) (A) and (B) of the Proposal.

[182] *See* paragraph (d)(2)(iii)(A) of the Proposal. The criteria to be met by the issuer are the same as those set forth in Rule 144 [17 CFR 230.144 (1987). In determining whether or not the issuer has complied with this requirement, a seller would be entitled to rely on either a written statement from the issuer or

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The Commission requests comment on the appropriateness of omitting the requirement that the issuer be a reporting company in the case of debt securities and preferred stock. In the event that the issuer is not a reporting company, should the rule require that the issuer undertake either as a term of the security or contractually to provide the holder of the security, upon request, certain basic information, such as that specified in Rule 15c2–11 under the Exchange Act? [183] Should such a requirement be imposed only for preferred stock and non-investment grade debt, since investment grade debt trades primarily on the basis of yield and rating, rather than on publicly available information? Finally, the Commission requests comment on whether the requirements that the securities be issued by a reporting company or be non-convertible debt securities or non-convertible preferred stock are unnecessary for the protection of the institutinal buyers covered by the non-fungible securities tier.

3. Resale Restrictions

As under the qualified institutional buyer tier of the proposed Rule, the non-fungible securities tier imposes no resale restrictions. The lack of required resale restrictions in the non-fungible securities tier of the Rule reflects the private resale market's extensive experience with senior securities, the traditionally institutional nature of the market for those securities, and the ability to trace any leakage of restricted securities into the retail markets where a public market does not otherwise exist.

The non-fungible securities tier, like the qualified institutional buyer tier, does, however, require that the seller or any person acting on its behalf take reasonable steps to ensure that the purchaser is aware that the seller may rely on the exemption from registration provided under Rule 144A.[184] Where the mandated procedure was followed, a seller would be entitled to rely on the safe harbor provided by the proposed Rule, even if the buyer subsequently offered or sold the securities in the United States in an unregistered, *non-exempt* transaction. If that occurred, the reselling purchaser would violate Section 5, but not the prior holder that sold in compliance with the safe harbor rule.

E. The Fungible Securities Tier

1. Institutional Buyers

Eligible offerees and purchasers under the fungible securities tier of proposed Rule 144A are the same as those under the non-fungible securities tier.[185] Commentators should address the questions raised with respect to eligible purchasers under the non-fungible securities tier of the proposed Rule with respect to the fungible securities tier as well.[186]

2. Securities Covered

The distinction between the securities covered by this third tier and the second tier is that the third tier covers non-convertible debt, non-convertible preferred stock and securities issued by reporting companies of a class that is quoted in an inter-dealer quotation system or listed on a registered national securities exchange, as well as such securities issued by open-end investment companies, face-amount certificate companies and unit investment trusts registered under section 8 of the Investment Company Act.[187] However, any securities that could be offered or sold under the second tier could also be traded under the third. As in the case of the non-fungible securities tier, the Commission requests comment on whether the requirements that the securities be issued by a reporting company or be non-convertible debt securities or non-convertible preferred stock are unnecessary for the protection of the institutional buyers involved.

3. Resale Restrictions

In contrast to the qualified institutional buyer and non-fungible securities tiers of the proposed Rule, the fungible securities tier of the proposed Rule would impose resale restrictions. Under this tier, an offer or sale of securities would be protected by the safe harbor only where made pursuant to procedures designed to prevent "leakage" of the securities into the retail market in such a manner as to result in an unregistered public offering.

The proposed Rule would require that the seller or any person acting on its behalf take reasonable steps to prevent the purchaser of such securities from reselling the securities in the United States without registration or an available exemption.[188] Where precautionary procedures were implemented and followed properly, a seller's transaction would be protected by the safe harbor, notwithstanding any subsequent *non-exempt* unregistered distribution by a purchaser. In such cases, the reselling purchaser would be in violation of section 5, but not the prior holder that sold in compliance with the safe harbor rule.

The Rule provides that reasonable steps to guard against an unregistered, non-exempt public offering would be conclusively established where the purchaser agreed in writing not to resell the securities in the United States absent registration or an applicable exemption, and the securities were in registered (as opposed to bearer) form, and appropriately legended [189] or subject to stop transfer instructions in the case of non-exempt transactions not registered under the Securities Act.[190] These are traditional precautions that have been taken to guard against an unregistered public offering, particularly in the case of common equity. These steps would provide a non-exclusive means of demonstrating compliance with the mandated precautionary procedure. The seller's failure to take the particular steps specified in the Rule would not create a presumption that it had acted unreasonably. In the absence of taking the specified steps, the seller would remain free to establish that reasonable steps had been taken to prevent an unregistered distribution in the United States by the buyer through other means.

The Commission requests comment on whether the measures proposed as conclusive proof that the seller acted reasonably to prevent an unregistered, non-exempt distribution are adequate. Commenters are also requested to address whether there are more efficient and effective means of protecting against retail leakage.

An alternative method of protecting against an unregistered public offering is to establish trading systems that limit trading to qualifying institutions and establish depositary and clearance

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statements in reports filed by the issuer with the Commission indicating that the issuer has met this requirement. The annual report on Form 10–K (17 CFR 249.310, the quarterly report on Form 10–Q 17 CFR (249.308a), and Form 20–F (17 CFR 249.220f) (on which annual reports are made by foreign issuers) require that the filer indicate whether it "(1) has filed all reports required to be filed by section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days."

[183] *See supra* text accompanying nn. 171.

[184] *See* paragraph (d)(2)(iv) of the Proposal. See discussion and solicitation of comments in Section V.E.3. below concerning the adequacy of that notice procedure.

[185] *See* paragraph (d)(3)(i) of the Proposal.

[186] *See supra* Section V.D.1.

[187] *See* paragraph (d)(3)(ii) of the Proposal.

[188] *See* paragraph (d)(3)(iii) of the Proposal.

[189] *See* 17 CFR 230.502(d).

[190] *See* pargraph (d)(3)(iii)(A) and (B) of the Proposal.

systems such that trades may be made only to other such institutions. The American Stock Exchange and the National Association of Securities Dealers both have announced plans to establish such systems for the trading of unregistered securities.[191]

The operating procedures for such systems have not yet been finalized. However, the Commission, as an alternative to the procedures described above, could deem a system to establish adequate procedures under Rule 144A if it (i) provided for a deposit or book entry of securities, (ii) restricted transferees to qualifying institutions buying for their own account or the account of other qualifying institutions, and (iii) limited the transactions allowed for exiting the closed system to those adequately documented and verifiable transactions that were not subject to registration under the Securities Act (for example, sales made under proposed Regulation S). In addition, such system would provide adequate surveillance procedures for the market and the Commission to verify that such eligibility criteria were maintained. Sellers of securities in such systems, by compliance with the terms of such systems, could meet the requirements of Rule 144A. They would not be required to inquire as to the purchaser's status or obtain its written agreement to resell the securities in accordance with the Rule, as these functions would be performed through the operating procedures of the closed system. Participation in such a system would be conditional only within that system or in transactions exempt from registration. The Commission requests comments as to whether, in the case of fungible securities, it should require participation in the kind of closed trading system discussed above, or would the resale restrictions proposed adequately protect against an unregistered, non-exempt public offering in the United States?

The procedures proposed under the third tier have not been proposed with respect to fungible securities covered by tier 1. The distinction is based on the premise that the qualified institutions are sufficiently sophisticated and experienced in the trading of restricted securities to protect adequately against an illegal unregistered distribution from being effected. The Commission requests comment on the soundness of this premise, and on whether any of the resale restrictions proposed under the fungible securities tier should be applied to all or some portion of the qualified institutional buyer and non-fungible securities tiers. In particular, the Commission requests comment on the adequacy of relying on notice to the buyer that the seller may rely on Rule 144A to assure against leakage into the public market of fungible securities traded in the U.S. public markets, as would be permitted under the qualified institutional buyer tier. Similarly, is such notice sufficient in the case of non-fungible common stock of reporting companies, that would be covered by the non-fungible securities tier?

VI. Changes to Rule 144 and Rule 145

In connection with its consideration of proposed Rule 144A, the Commission has reexamined the principles underlying the determination of holding periods for purposes of Rule 144. As a result, the Commission is today proposing amendments to Rule 144's tacking concept.

While the proposed amendments to Rule 144 arose in the context of the development of Rule 144A, they would be applicable to all restricted securities, not only those sold under Rule 144A. The Commission's assessment of the advisability and effect of the Rule 144 changes must take into account their full scope. The Commission may determine to adopt one or more tiers of proposed Rule 144. Commentators therefore should address the merits of the proposals both independently and as a package.

Under the current Rule, restricted securities [192] generally are required to be held for at least two years before the holder may sell the securities in reliance upon the safe harbor provisions of Rule 144.[193] Except in limited instances,[194] the holding period of prior owners is not combined with, or "tacked" on to, the holding period of the person wishing to sell in reliance on Rule 144.[195]

The holding period condition incorporated in Rule 144 is intended to protect against an indirect public offering.[196] The prohibition against tacking of a prior holder's holding period derived in part from pre-Rule 144 theories pursuant to which a holder could be deemed to have acquired restricted securities with an investment intent rather than "with a view to distribution." [197] Finding that these

[191] The American Stock Exchange, Inc. has proposed a domestic market for institutional trading of unregistered foreign securities to be known as SITUS, for "System for Institutional Trading of Unregistered Securities." The National Association of Securities Dealers, Inc. is developing a NASDAQ-type system for the trading of unregistered securities of major foreign and domestic issuers. The NASD system will be known as PORTAL, for "Private Offerings, Resales and Trading through Automated Linkages." The proponents of these systems have not yet established the availability of exemptions from the applicable provisions of the Securities Act or the Exchange Act, and this discussion should not be read to indicate that the Commission has made any determination as to the application of the provisions of such Arts to either SITUS or PORTAL.

[192] The term "restricted securities" presently is defined in Rule 144(a)(3), 17 CFR 230.144(a)(3), as securities that are acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering, or securities acquired from the issuer that are subject to the resale limitations or Regulation D or Rule 701(c) (§ 230.701(c) of this chapter) under the Act, or securities that are subject to the resale limitations of Regulation D and are acquired in a transaction or chain of transactions not involving any public offering.

The Commission proposes to amend this provision to reflect the inclusion of securities acquired in Rule 144A transactions.

[193] Rule 144(d)(1) (17 CFR 230.144(d)(1)).

[194] Rule 144(d)(4) sets forth specific provisions that permit a holder or transferee of restricted securities to "tack" (a) the holding period of the transferor, based on an identity of interest between such transferors and transferees as a pledgor and pledgee Rule 144(d)(4)(iv)), donor and donee (Rule 144(d)(4)(v)), settlor and trust (Rule 144(d)(4)(vi)), and a decedent and his estate (Rule 144(d)(4)(vii)); and (b) the period of time certain restricted securities have been held to the holding period of "related" securities subsequently acquired from the issuer as a dividend or pursuant to a stock split or recapitalization (Rule 144(d)(4)(i)), for consideration consisting solely of such other securities of the same issuer surrendered for conversion (Rule 144(d)(4)(ii)), or as a contingent payment of the purchase price of an equity interest in a business, or the assets of a business, sold to the issuer or an affiliate of the issuer. (Rule 144(d)(4)(iii)).

[195] *See* Securities Act Release No. 5223 (Jan. 11, 1972) (37 FR 591). *See also* J. Halperin, *Private Placement of Securities* § 8.19, at 279 (1984); D. Goldwasser, *A Guide to Rule 144* 439 (1978); Securities Act Release No. 6099 (Aug. 2, 1979) (44 FR 46752) (Questions 33 and 34).

[196] *See* Preliminary Note to Rule 144.

[197] *See* Section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)). *See also In Re The Crowell-Collier Publishing Co.*, Securities Act Release No. 3825 (Aug. 12, 1957) ("one evidentiary fact" to be considered in ascertaining whether a purchaser took with investment intent, rather than with the intent to distribute that would render him a statutory underwriter, is the length of the period between acquisition and resale).

Prior to the adoption of Rule 144, the Commission focused on two factors in ascertaining whether a holder of unregistered securities had purchased with the requisite investment intent: (1) The length of time the securities were held, as determined by the holder's execution of an "investment letter" on the date of purchase containing the assertion that he was not taking the securities with a view to their later distribution, but instead intended to hold them for investment (*see, e.g., Riker-Maxson Corp.* (avail. Dec. 27, 1971)); and (2) any "change in circumstances" between purchase and resale indicating that such resale was not contemplated at the time the security was acquired (*see, e.g., Computest Corp.* (avail. Oct. 8, 1971)). *See* Preliminary Note to Rule 144; *see also U.S. Securities and Exchange Commission, Disclosure to Investors—A Reappraisal of Federal Administrative Policies Under the '33 and '34 Acts: The Wheat Report* 162–71 (1969); 7B J. Hicks, *Exempted Transactions Under the Securities Act of 1933* § 9.02(2)(a) (1988 rev'd ed.).

theories had generated substantial uncertainty in the application of the securities Act's registration provisions, while failing to assure adequate protection of investors, the Commission adopted Rule 144 to provide a more objective and certain standard for determining when securities could be sold to the public without concern for the seller being found to be a statutory underwriter.[198] In 1981, paragraph (k) was added to the Rule to provide a defined holding period beyond which the previously restricted securities could be resold freely by non-affiliates.[199] And, in 1983, the public information requirement was dropped from Rule 144(k).[200]

As a result of its reexamination of the resale issue, the Commission today is proposing to amend Rule 144 to permit holders of securities acquired in a transaction or chain of transactions not involving any public offering to include the holding period of prior unaffiliated holders. The proposed changes to Rule 144 would apply to securities acquired in reliance upon proposed Rule 144A as well as to other restricted securities. Requiring securities to be held for two years by each successive holder before permitting Rule 144 resales, without regard to the time elapsed from the date of the sale of the security by the issuer or an affiliate, appears to be unnecessarily restrictive. A single period running from the date of the purchase from the issuer or its affiliate would appear sufficient to prevent the distribution of restricted securities to the public.

Rule 144(d)(1) thus is proposed to be amended to allow the two-year period prescribed therein to run continuously from the acquisition of restricted securities from the issuer, or from any affiliate thereof, until the subsequent resale of the securities by either the initial holder or a subsequent holder. Because of its "issuer" status for purposes of the rule,[201] an affiliate's resale of securities acquired at some point in a chain of transactions occurring within two years of a non-affiliate's acquisition of such securities from the issuer or an affiliate will trigger the commencement of a new period.

As proposed, Rule 144(k) similarly would be amended to permit a non-affiliate, who has been a non-affiliate for at least three months, to resell restricted securities free of the restrictions imposed by paragraphs (c), (e), (f), and (h) of Rule 144 if a period of at least three years, as computed in accordance with paragraph (d) of the rule, had elasped since the later of the date the securities originally were acquired from the issuer or the date they were acquired from an affiliate of the issuer.

Comment is sought, first, regarding the impact on the secondary private markets for debt and equity securities, respectively, of the present general rule barring tacking by successive purchasers of such securities, and second, the anticipated consequences to such markets of the proposed amendments. Commentators should identify, to the extent possible, the particular effect of such change on sales to non-institutional investors. Commentators also should address the impact of the adoption of Rule 144A if the current bar on tacking is retained.

As under existing Rule 144, where the initial acquisition is a sale, the two-year period would not begin to run until the full purchase price had been paid by the person acquiring the securities from the issuer or an affiliate of the issuer.[202] Likewise perpetuating the requirements of the present Rule, amended subdivision (d)(2) of the rule would provide that payment for the securities acquired from the issuer or an affiliate by means of a promissory note, other obligation or installment contract would not be deemed full consideration unless specific conditions were met.[203]

Consistent with the focus of the revised approach to determination of the period required prior to the resale of restricted securities in reliance upon Rule 144's safe harbor, the Commission is proposing to rescind existing Rule 144(d)(3). Proposed subdivisions (d)(1) and (k) would provide for a single two or three year period running from the date of acquisition from the issuer or an affiliate of the issuer. Under such an approach, the question whether the initial or any subsequent holder sold short or otherwise held a contingent position in restricted securities is irrelevant, provided the person acquiring the securities from the issuer or an affiliate of the issuer paid full consideration for the securities and the prescribed period had run. The Commission seeks comment on any potential adverse or beneficial effects of the rescission of Rule 144(d)(3), if any, on institutional and non-institutional participants in the secondary private markets.

As discussed, the two and three year periods established by proposed Rule 144(d)(1) and proposed amended Rule 144(k) would begin anew for persons acquiring securities from an affiliate of the issuer. Exceptions to this general rule would be preserved expressly in proposed Rules 144(d)(3)(iv) through (vii) [204] for the benefit of persons taking securities from an affiliated pledgor, donor, trust settler or deceased person.[205] The existing Rule enables a holder of securities to combine with his own holding period, the holding period of either an affiliated or a non-affiliated transferor under those circumstances. By contrast with the "sale" transactions contemplated by existing and proposed Rule 144(d)(1), pursuant to which an affiliate seller's holding period may not be tacked to that of the buyer, there is an identity of interest between a transferee who acquires securities in what the Commission traditionally has considered to be a non-sale transaction. Regardless of whether the transferor in such a non-sale transaction is an affiliate or non-affiliate of the issuer, the transferee should be permitted to avail himself of the holding periods of his respective transferor.

The proposed revisions to Rules 144(d)(1) and (k) render such provisions unnecessary for transferees of a non-affiliate. Under paragraphs (d)(3) (iv) through (vii), the holding period of an affiliate's pledgee, donee, trust or estate similarly would continue to relate back to the date of acquisition by the affiliate. As under current paragraph (d)(3)(vii), the two and three year periods would not be required for estates and beneficiaries thereof that are not affiliates of the issuer. Paragraphs (c), (f), (g), (h) and (i) of the Rule would continue to apply to securities sold by such persons in reliance upon Rule 144's safe harbor in less than three years.

Comment is sought as to the continuing validity of the Commission's

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[198] Preliminary Note to Rule 144, citing Section 2(11) of the Securities Act (15 U.S.C. 77b(11)).

[199] Securities Act Release No. 6286 (Feb. 6, 1981) (48 FR 44771). *See* Securities Act Release No. 6488 (Sept. 23, 1983) (46 FR 12195).

[200] Securities Act Release No. 6487 (Sept. 23, 1983) (48 FR 44843).

[201] For purposes of Rule 144, an affiliate of an issuer "is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such issuer." Rule 144(a)(1). *See* Rule 405 (17 CFR 230.405). Section 2(11) of the Securities Act defines the term "issuer" to include an affiliate of the issuer. Accordingly, any person purchasing from an affiliate may be deemed a statutory underwriter.

[202] Proposed paragraph (d)(1) of Rule 144.

[203] Proposed paragraph (d)(2) of Rule 144.

[204] Present Rules 144(d)(4)(iv) through (d)(4)(vii) (17 CFR 230.144(d)(4)(iv) through (d)(4)(vii)). Rule 144(d)(4) would be renumbered as 144(d)(3) if the Commission rescinds existing Rules 144(a)(3) as proposed.

[205] *See supra* n. 194

position regarding tacking of holding of securities acquired from an affiliated pledgor, donor, settlor or deceased individual. Commentators should address the merits of the Commission's view of proposed (d)(3)(iv) through (d)(3)(vii) [206] transactions, and of the possibility that the different treatment of affiliates engaged in such transactions would give rise to a distribution of restricted securities.

Currently, the acquisition or securities pursuant to a transaction of the type specified in Rule 145(a) is considered a purchase from the issuer for purposes of Rule 144.[207] Proposed subdivision (d)(3)(viii) makes it clear, consistent with this view, that the two and three year periods established by Rules 144 (d) and (k) and incorporated in Rule 145(d) would commence running on the date the holder is deemed to have acquired the securities in a Rule 145(a) transaction. Proposed Rule 145(d) would provide for the resale by such person or party of the securities thus acquired after a period of two or three years as computed under amended Rules 144(d) or (k). Finally, an exception set forth in new Rule 144(d)(3)(viii) would codify the staff's interpretation position that a transaction effected solely for the purposes of forming a holding company will be deemed a "recapitalization" within the meaning of existing Rule 144(d)(4)(i); [208] therefore, the holding period of the holding company's securities is tacked to that of the predecessor operating company's securities.[209] In determining whether a transaction is solely for the purposes of forming a holding company, the analysis outlined in the *Morgan, Olmstead, Kennedy & Gardner Capital Corp.* letter would be followed.

Comment is sought on the continuing applicability of the non-tacking principal proposed to be codified in Rule 144(d)(3)(viii), as well as codification of the exception to the principle that is proposed in this new subdivision.

The proposed amendments to Rule 144 are intended only to establish the commencement date for determining the two and three year periods, and do not change the required aggregation of the seller's and buyer's sales in determining compliance with the volume limitations prescribed by Rule 144(e)(2).[210] If the transaction, while denoted as a purchase acquisition, were found in substance to be a transaction specified in paragraphs (d)(3) (iv) through (vii) of the Rule, as proposed to be amended, the substance of the transaction would govern and the applicable aggregation principles set forth in Rule 144(e) therefore would apply. Where two or more affiliates or other persons agree to act in concert for the purpose of selling restricted securities, aggregation also may be required under Rule 144(e)(3)(vi).

VII. Cost-Benefit Analysis

To evaluate fully the benefits and costs associated with proposed Rule 144A, the Commission requests commenters to provide views and data as to the costs associated with private resales under current law as compared to such estimated costs under the proposed Rule. In this regard, the Commission notes that the proposed Rule should facilitate resales by providing a rule to accommodate existing practice. The Commission also requests commenters to provide views and data regarding the costs and benefits of the proposed Rule to issuers of securities, institutional and other investors and the trade markets.

By providing clearer guidance as to the applicability of the Securities Act registration provisions, the proposed Rule should increase the marketability of unregistered securities sold and thus result in reduced capital-raising costs to issuers, since a deeper secondary market should enable them to obtain more favorable prices for their securities. In addition, purchasers and sellers should benefit from the increased liquidity provided by this secondary market.

As the proposed Rule sanctions certain existing practices, is non-exclusive, and does not impose any record keeping or reporting requirements, the Commission is not aware of any additional costs that would result from the proposal.

The Commission also requests commenters to provide views and data on the costs associated with resales under Rule 144 and Rule 145 as presently in force and as proposed to be amended. As the proposed amendments would not require any different procedures for resale, and would allow resales to be made under Rule 144 sooner than is presently the case in many instances, the Commission does not anticipate any additional costs to result from the proposed amendment.

VIII. Initial Regulatory Flexibility Act Analysis

This initial regulatory flexibility analysis relates to proposed new Rule 144A and amendments to Rules 144 and 145 under the Securities Act of 1933 ("Securities Act"), and has been prepared in accordance with the Regulatory Flexibility Act.[211]

A. Reasons for Proposed Action

The Commission is proposing Rule 144A because it appears that, in certain circumstances, specified institutional investors may not need the protection of the registration provisions of the Securities Act. Further, registration in such circumstances may impose undue burdens on the parties to these transactions. If this Rule is adopted, a more efficient market for resales to institutional investors should develop.

The Commission is proposing to amend Rules 144 and 145 to provide a more equitable means of determining the period for which restricted securities must be held before public resale is protected by the rules. The effect of these changes would be that restricted securities could be sold subject to certain conditions after two years from the date of their acquisition from an issuer or an affiliate thereof, and would be freely resalable three years after such acquistion.

B. Objectives

The proposed Rule 144A is intended to provide a nonexclusive safe harbor from the registration requirements of the Securities Act for resales of securities to institutional investors. The proposed Rule includes three tiers. The first (the "qualified institutional buyer tier") would allow resales of any securities to institutions with assets of $100 million or more. The second (the "non-fungible

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[206] Present Rules 144(d)(4)(iv) through (d)(4)(vii) (17 CFR 230.144(d)(4)(iv) through (d)(4)(vii)).

[207] 17 CFR 230.145(a). As explained in the Preliminary Note to Rule 145, persons who are offered securities in business combinations of the following types may avail themselves of the safe harbor available under the Rule: (1) Reclassification, other than a stock split, reverse stock split or change in par value, that involves the substitution of one security for another; (2) merger or consolidation; and (3) transfer of assets in consideration of the issuance of securities under certain conditions.

[208] Proposed Rule 144(d)(3)(i).

[209] *See Morgan, Olmstead, Kennedy & Gardner Capital Corp.*, [1987–1988 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 78,672 (avail. Dec. 8, 1987) (permitting such tacking subject to four conditions: (1) The holding company stock must be issued solely in exchange for the operating stock; (2) security holders receive securities of the same class and in the same proportions as exchanged; (3) the holding company is newly formed has not significant assets except operating company securities immediately after the transaction and, at that time, has substantially the same assets and liabilities, on a consolidated basis, as those of the operating company immediately prior to the transaction; (4) the rights and interests of common stockholders in the holding company are substantially the same as they had as holders of the operating company's common stock).

[210] 17 CFR 230.144(e)(2).

[211] 5 U.S.C. 603.

securities tier") would permit unlimited resales of restricted securities of a class not publicly traded in the United States to specified institutions of a smaller size, provided the securities to be offered or sold were non-convertible debt securities or non-convertible preferred stock, or securities of an issuer reporting under the Securities Exchange Act of 1934. The third tier (the "fungible securities tier") would allow unlimited resales of restricted securities of a class publicly traded in this country, if the securities were non-convertible debt securities, non-convertible preferred stock, or securities of a reporting company. In addition, the fungible securities tier would require that the seller take reasonable steps to guard against an unlawful distribution in the United States by the purchaser.

The proposed changes to Rule 144 (and thus, Rule 145) would have the effect of enabling holders of restricted securities to "tack" the holding period of sellers other than the issuer or affiliates of the issuer of the securities. Currently, Rule 144 permits the public resale of restricted securities when certain conditions, including a minimum holding period of two years (Rule 144(d)(1)) or three years (Rule 144(k)), are met. Tacking generally is not permitted in calculating Rule 144 holding periods. Rule 145 in turn permits public resales of securities issued in certain business combinations, provided in part that mimimum holding periods prescribed by Rule 144 have run.

Under the proposed amendments to Rule 144, the two or three year period for restricted securities, including securities acquired meeting the requirements of Rule 144A, would commence at the time the securities were acquired or deemed to have been acquired from the issuer or an affiliate of the issuer. Thus, the periods imposed by Rule 144 would run continuously from the initial acquisition of restricted securities to the resale of such securities two or three years later by either the holder or a subsequent holder. Only an affiliate's acquisition and resale of the securities, at some point in a chain of transactions occurring during the running of the period, would trigger the commencement of a new holding period for any person taking from such affiliate. Because Rule 145 holding periods are determined by reference to Rule 144, Rule 145 would be amended to reflect the proposed amendments to Rule 144.

C. Legal Basis

Rule 144A and the amendments to Rules 144 and 145 are being proposed by the Commission pursuant to sections 2(11), 4(1), 4(3) and 19(a) of the Securities Act.[212]

D. Small Entities Subject to the Rule

The Commission has adopted definitions of the term "small entity" for the various entities subject to Commission rulemaking. When used with reference to an "Issuer," other than an investment company, the term is defined by Rule 157 [213] under the Securities Act as an issuer whose total assets on the last day of its most recent fiscal year were $5,000,000 or less and that is engaged or proposing to engage in an offering of securities which does not exceed $5,000,000. The Commission has no data on the number of such small entities that would be affected by proposed Rule 144A, and an estimation of such number is not currently feasible. However, during 1987, about 750 small issuers engaged in public offerings of $5,000,000 or less. If the non-fungible securities or fungible securities tier of proposed Rule 144A were ultimately adopted, the Rule 144A might affect small issuers disproportionately. The Rule would not be available for the resale of common equity securities issued by most small issuers. Therefore, the effect of the Rule could be to ease certain burdens for larger rather than small entities with respect to resales covered by the Rule. To the extent that small issuers are directly affected by the proposed Rule, however, the Rule's enhancement of the liquidity of the private secondary markets should make it easier for such issuers to sell securities in that market. If the qualified institutional buyer tier ultimately were adopted, small issuers would not be disproportionately affected by Rule 144A, as that tier is not limited to debt securities, preferred stock and securities issued by reporting issuers.

As regards broker-dealers subject to the proposed Rule, Rule 0–10(c) under the Exchange Act [214] indicates that a "small entity" or "small organization" for the purposes of the Regulatory Flexibility Act shall mean a broker or dealer that (1) had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) [215] or if it is not required to file such statements, a broker or dealer that had total capital of less than $500,000 on the last business day of the preceding fiscal year, and (2) is not affiliated with any person that is not a small business or small organization as defined in this section. The Commission has no data on the number of such small entities or organizations that would be affected by proposed Rule 144A, and an estimation of such number is not currently feasible. However, as of the end of 1987, approximately 7,233 broker-dealers were small entities or organizations as defined by this rule. Small entities that are broker-dealers generally would be affected by the proposed Rule 144A in the same way as other investment firms.

The proposed Rule 144A may affect small businesses that are institutional investors. To the extent that these investors are affected by the proposed Rule, the Rule should make it easier for them to resell privately placed securities principally due to the improved liquidity of this market. However, the qualified institutional buyer tier of the proposal would provide a wider safe harbor to institutional investors having total assets in excess of $100 million.

The proposed amendments to Rules 144 and 145 are expected to reduce the costs associated with sales of restricted securities by small and large issuers alike. As stated above, the Commission has no data on the number of such small entities or organizations that would be affected by the proposed amendments, and an estimation of such number is not currently feasible.

E. Reporting, Recordkeeping and other Compliance Requirements

Rule 144A, if adopted, would provide a safe harbor from the registration provisions of the Securities Act, and thus may result in the filing of fewer registration statements under that Act. If so, adoption of the Rule may result in decreased reporting, recordkeeping, and other complaince requirements with respect to transactions covered by the Rule.

The amendments to Rules 144 and 145 would have no significant effect on reporting, recordkeeping, and other compliance requirements.

F. Overlapping or Conflicting Federal Rules

It does not appear that the proposed Rule 144A and the proposed amendments to Rules 144 and 145 duplicate, overlap, or conflict with any existing Federal Rule.

G. Significant Alternatives

Proposed new Rule 144A and the amendments to Rules 144 and 145 are intended to benefit all issuers, regardless of size, by providing clarification of the circumstances in which resales of securities made to

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[212] 15 U.S.C. 77b(11), 77d(1), 77d(3), and 77s(a).

[213] 17 CFR 230.157.

[214] 17 CFR 240.0–10(c).

[215] 17 CFR 240.17a–5(d).

institutional investors may be made without registration under the Securities Act.

A possible alternative to the proposed Rule 144A and the amendments to Rules 144 and 145 might include the establishment of differing compliance or reporting requirements for small entities. Such an alternative, however, based only on the size of the issuer and no other criteria, would not be consistent with the goal of the Securities Act to protect investors. Further clarification, consolidation, or simplification of compliance and reporting requirements under the regulation for small entities also would not be appropriate. The proposed Rule and the amendments are themselves a clarification and simplification of compliance and reporting requirements, and additional simplification for small entities would not be consistent with the Commission's statutory mandate.

Another alternative could be the adoption of performance rather than design standards with regard to resales and holding periods for such resales. Use of performance rather than design standards in a safe-harbor context would frustrate the ability of persons relying on Rule 144A and the amendments to Rules 144 and 145 to ascertain whether all the conditions for meeting the safe harbor were satisfied. An exemption from the provisions of the regulation for small entities would exclude such entities from coverage of the safe harbor. Application of the Rule and the amendments to both large and small entities is consistent with the Commission's mandate.

An alternative to the amendments to Rules 144 and 145 could be the elimination of all holding periods for resales of restricted securities. However, it appears that a period of two years (Rule 144(d)(1)) or three years (Rule 144(k)) is necessary to prevent the distribution of restricted securities from affecting the market for publicly-held securities of the issuer.

H. Solicitation of Comments

The Commission encourages the submission of written comments with respect to any aspect of this initial regulatory flexibility analysis. Such written comments will be considered in the preparation of the final regulatory analysis if the proposed Rule is adopted. Persons wishing to submit written comments should file four copies of such comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washingtron, DC 20549. All submissions should refer to File No. S7–23–88 and will be available for public inspection and copying at the Commission's Public Reference Room.

IX. Requests for Comments

Any interested persons wishing to submit written comments on proposed Rule 144A and the proposed amendments to Rules 144 and 145, as well as on other matters that may have an impact on the proposals, are requested to do so. The Commission specifically requests that commenters address whether the qualified institutional buyer tier, the non-fungible securities tier or the fungible securities tier of proposed Rule 144A, or a combination of two or three of the tiers, would be preferable.

In addition to the specific requests for comments appearing elsewhere in this release, the Commission generally seeks comment on the potential market impact of proposed Rule 144A and on the usefulness of the proposed Rule for resales of securities by institutional investors.

X. Statutory Basis for Proposals

Rule 144A is being proposed by the Commission and Rules 144 and 145 are proposed to be amended by the Commission pursuant to sections 2(11), 4(1), 4(3), and 19(a) of the Securities Act of 1933.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

XI. Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 is amended by adding the following citation: (citations before * * * indicate general rule making authority).

Authority: Sec. 19, 48 Stat. 85, as amended, 15 U.S.C. Section 77S * * * Section 230.144A also issued under sec. 2, 48 Stat. 74, as amended, 15 U.S.C. 77b; and also sec. 10, 48 Stat. 81 as amended, 15 U.S.C. 77j.

2. By adding § 230.144A to read:

§ 230.144A Private resales of securities to institutions.

Preliminary Notes

1. Attempted compliance with this rule does not act as an exclusive election; any seller hereunder may also claim the availability of any other applicable exemption from the registration requirements of the Act.

2. Nothing in this rule obviates the need for any issuer or any other person to comply with the securities registration or broker-dealer registration requirements of the Securities Exchange Act of 1934 (the "Exchange Act"), whenever such requirements are applicable.

3. Nothing in this rule obviates the need for any person to comply with any applicable state law relating to the offer and sale of securities.

4. Securities acquired in a transaction meeting the conditions of this rule are considered to be "restricted securities" within the meaning of § 230.144(a)(3) of this chapter.

(a) *Definitions.* The following definitions shall apply for purposes of this § 230.144A.

(1) "Institutional buyer" means any of the following:

(i) Any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act, whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Exchange Act; any insurance company as defined in section 2(13) of the Act; any investment company registered under the Investment Company Act of 1940 (the "Investment Company Act") or business development company as defined in section 2(a)(48) of that Act; any small business investment company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or investment adviser registered under the Investment Advisers Act of 1940 (the "Investment Advisers Act"), or if the employee benefit plan has total assets of $5,000,000;

(ii) Any private business development company a defined in section 202(a)(22) of the Investment Advisers Act;

(iii) Any corporation, Massachusetts or similar business trust, organization described in section 501(c)(3) of the Internal Revenue Code, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000; or

(iv) Any entity all of the equity owners of which are institutional buyers.

(2) "Qualified institutional buyer" means any of the following:

(i) Any institutional buyer that has total assets in excess of $100,000,000;

(ii) Any investment adviser registered under the Investment Advisers Act that has total assets in excess of $100,000,000;

(iii) Any investment company registered under the Investment Company Act that is part of a family of investment companies with aggregate total assets in excess of $100,000,000. "Family of investment companies" means:

(A) Except for insurance company separate accounts, any two or more investment companies separately registered under the Investment Company Act that share the same investment adviser or principal underwriter and that hold themselves out as related companies for purposes of investment and investor services; or

(B) With respect to insurance company separate accounts, any two or more separate accounts separately registered under the Investment Company Act that share the same investment adviser or principal underwriter and that function under operational or accounting or control systems that are substantially similar; or

(iv) Any entity all of the equity owners of which are qualified institutional buyers.

(3) "Total assets" of a person means the sum of:

(i) The total assets of that person or of that person and any consolidated subsidiaries thereof, whichever is larger, as determined in accordance with the provisions of Regulation S-X under the Act; and

(ii) For purposes of paragraph (d)(1) of this § 230.144A, with respect to an investment adviser registered under the Investment Advisers Act, any assets as to which that person, as an investment manager, exercises investment discretion.

(b) Any person, other than the issuer or a dealer, who offers or sells securities in compliance with the conditions set forth in paragraph (d)(1), (2) or (3) of this § 230.144A shall be deemed not to be engaged in a distribution of such securities and therefore not to be an underwriter thereof within the meaning of sections 2(11) and 4(1) of the Act.

(c) Any dealer who offers or sells securities in compliance with the conditions set forth in paragraph (d)(1), (2) or (3) of this § 230.144A shall be deemed not to be a participant in the distribution of such securities within the meaning of section 4(3)(C) of the Act, and such securities shall be deemed not to have been offered to the public within the meaning of section 4(3)(A) of the Act.

(d) *Conditions to be Met.* To qualify for exemption under this § 230.144A, an offer or sale must satisfy the conditions of paragraph (d)(1), (2) or (3) of this section:

(1) *Securities offered and sold to qualified institutional buyers.* (i) The securities are offered and sold only to a qualified institutional buyer or nominee thereof, or the seller and any person acting on its behalf reasonably believe that the offeree or purchaser is a qualified institutional buyer or nominee thereof. In determining whether a particular person is a qualified institutional buyer, the seller and any person acting on its behalf shall be entitled to rely on financial statements or other material filed with the Commission pursuant to the Act, the Exchange Act, the Investment Company Act, or the Investment Advisers Act, unless the seller or any person acting on its behalf knows or has reason to believe that such person is not a qualified institutional buyer; and

(ii) The seller or any person acting on its behalf takes reasonable steps to ensure that the purchaser is aware that the seller may rely on an exemption from the provisions of section 5 of the Act pursuant to this § 230.144A.

(2) *Non-convertible debt securities, non-convertible preferred stock and securities of reporting companies offered and sold to institutional buyers and of a class not traded in any U.S. public market.* (i) The securities are offered and sold only to an institutional buyer or nominee thereof, or the seller and any person acting on its behalf reasonably believe that the offeree or purchaser is an institutional buyer or nominee thereof;

(ii) Securities of the same class as the securities offered or sold are not quoted in an inter-dealer quotation system within the meaning of § 240.15c2–7(c) under the Exchange Act or listed on a national securities exchange registered under section 6 of the Exchange Act, nor are securities of an open-end investment company, unit investment trust or face-amount certificate company that is registered under section 8 of the Investment Company Act;

(iii) Either:

(A) For a period of at least 90 days immediately preceding the offer or sale of securities pursuant to this § 230.144A, the issuer shall have been subject to the reporting requirements of section 13 or 15(d) of the Exchange Act and shall have filed all reports required to be filed thereunder during the 12 months preceding such offer or sale (or for such shorter period that the issuer was required to file such reports). The seller shall be entitled to reply upon (*1*) a written statement from the issuer, or (*2*) statements in quarterly or annual reports filed with the Commission by the issuer, that such issuer has met such reporting requirements unless the seller knows or has reason to believe that the issuer has not compiled with such requirements; or

(B) The securities offered or sold are non-convertible debt securities or non-convertible preferred stock; and

(iv) The seller or any person acting on its behalf takes reasonable steps to ensure that the purchaser is aware that the seller may rely on an exemption from the provisions of section 5 of the Act pursuant to this § 230.144A.

(3) *Non-convertible debt securities, non-convertible preferred stock and securities of reporting companies sold to institutional buyers, whether or not of a class traded in a U.S. public market.*

(i) The securities are offered and sold only to an institutional buyer or nominee thereof, or the seller and any person acting on its behalf reasonably believe that the offeree or purchaser is an institutional buyer or nominee thereof;

(ii) Either:

(A) For a period of at least 90 days immediately preceding the offer and sale of securities pursuant to this § 230.144A, the issuer shall have been subject to the reporting requirements of section 13 or 15(d) of the Exchange Act and shall have filed all reports required to be filed thereunder during the 12 months preceding such offer or sale (or for such shorter period that the issuer was required to file such reports). The seller shall be entitled to rely upon (*1*) a written statement from the issuer, or (*2*) statements in quarterly or annual reports filed with the Commission by the issuer, that such issuer has met such reporting requirements unless the seller knows or has reason to believe that the issuer has not compiled with such requirement; or

(B) The securities offered or sold are non-convertible debt securities or non-convertible preferred stock; and

(iii) The seller or any person acting on its behalf takes reasonable steps to prevent the purchaser of the securities from reselling the securities in the United States unless they are registered under the Act or in exemption from registration is available. Such reasonable steps will be conclusively established where:

(A) The purchaser agrees in writing that the securities will not be resold in the United States unless they are registered under the Act or an exemption from registration is available; and

(B) The securities are in registered form, and are appropriately legended or

subject to stop transfer instructions (in the case of non-exempt transactions not registered under the Securities Act).

(e) Offers and sales of securities pursuant to this § 230.144A shall be deemed not to affect the availability of any exemption relating to the previous or subsequent offer or sale of such securities by the issuer or any prior or subsequent holder thereof.

3. By revising § 230.144 paragraphs (a)(3) and (c)(2) to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

(a) * * *

(3) The term "restricted securities" means securities that are acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering, or securities acquired from the issuer that are subject to the resale limitations of Regulation D (§ 230.501 through § 230.506 of this chapter) or Rule 701(c) (§ 230.701(c) of this chapter) under the Act, or securities that are subject to the resale limitations of Regulation D and acquired in a transaction or chain of transactions not involving any public offering, or securities that are acquired in a transaction meeting the requirements of Rule 144A (§ 230.144A of this chapter).

* * * * *

(c) * * *

(2) *Other Public Information.* If the issuer is not subject to section 13 or 15(d) of the Securities Exchange Act of 1934, there is publicly available the information concerning the issuer specified in paragraphs (i) to (xiv), inclusive, and paragraph (xvi) of paragraph (a)(5) of Rule 15c2–11 (§ 240.15c2–11 of this chapter) under that Act or, if the issuer is an insurance company, the information specified in section 12(g)(2)(G)(i) of that Act.

* * * * *

4. By further amending § 230.144 by revising paragraphs (d)(1) and (d)(2), removing paragraph (d)(3), redesignating (d)(4) as (d)(3), by revising newly redesignated (d)(3)(iv) through (d)(3)(vii), removing paragraph (a) of the note after (vii), removing the designation of paragraph (b) of the note after (vii), and adding a new (d)(3)(vii) as follows:

* * * * *

(d) * * *

(1) A minimum of two years must elapse between the later of the date of the acquisition of the securities from the issuer or from an affiliate of the issuer, and any resale of such securities pursuant to this rule by the acquiror or any subsequent holder of those securities. If the acquisition is a sale, the two-year period shall not begin to run until the full purchase price is paid by the person acquiring the securities from the issuer or from an affiliate of the issuer.

(2) Promissory Notes, Other Obligations or Installment Contracts. If the person making the acquisition of the securities from the issuer or from an affiliate of the issuer gives such seller a promissory note or other obligation to pay the purchase price or enters into an installment purchase contract with such seller, such consideration shall not be deemed full payment of the purchase price unless the promissory note, obligation or contract—

(3) * * *

(iv) *Securities pledged by an affiliate.* Securities which are bona fide pledged by an affiliate of the issuer when sold by the pledge, or by a purchaser, after a default in the obligation secured by the pledge, shall be deemed to have been acquired when they were acquired by the pledgor, except that if the securities were pledged without recourse they shall be deemed to have been acquired by the pledge at the time of the pledge or by the purchaser at the time of purchase.

(v) *Gifts of Securities by an affiliate.* Securities acquired from an affiliate of the issuer by gift shall be deemed to have been acquired by the donee when they were acquired by the donor.

(vi) *Trusts established by an affiliate.* Where a trust settlor is an affiliate of the issuer, securities acquired from the settlor by the trust, or acquired from the trust by the beneficiaries thereof, shall be deemed to have been acquired when such securities were acquired from the settlor.

(vii) *Estates.* Where a deceased person was an affiliate of the issuer, securities held by the estate of such person or acquired from such estate by the beneficiaries thereof shall be deemed to have been acquired when they were acquired by the deceased person, except that no holding period is required if the estate is not an affiliate of the issuer or if the securities are sold by a beneficiary of the estate who is not such an affiliate.

Note.—While there is no holding period or amount limitation for estates and beneficiaries thereof which are not affiliates of the issuer, paragraphs (c), (f), (g), (h) and (i) of the rule apply to securities sold by such persons in reliance upon the rule.

(viii) *Rule 145(a) transactions.* The holding period for securities acquired in a transaction specified in Rule 145(a) shall be deemed to commence on the date the securities were issued in such transaction. This provision shall not apply, however, to a transaction effected solely for the purpose of forming a holding company.

* * * * *

5. By further amending § 230.144 by revising paragraph (k) as follows:

* * * * *

(k) Termination of certain restrictions on sales of restricted securities by persons other than affiliates. The requirements of paragraphs (c), (e), (f) and (h) of this rule shall not apply to restricted securities sold for the account of a person who is not an affiliate of the issuer at the time of the sale and has not been an affiliate during the preceding three months, provided a period of at least three years has elapsed since the later of the date the securities were acquired from the issuer or from an affiliate of the issuer. In computing the three-year period for purposes of this provision, reference should be made to paragraph (d) of this section.

6. By reviewing § 230.145(d to read as follows:

§ 230.145 Reclassification of securities, mergers, consolidations and acquisition of assets.

* * * * *

(d) *Resale provisions for persons and parties deemed underwriters.* Notwithstanding the provisions of paragraph (c), a person or party specified therein shall not be deemed to be engaged in a distribution and therefore not to be an underwriter of registered securities acquired in a transaction specified in paragraph (a) of this section if:

(1) Such securities are sold by such person or party in accordance with the provisions of paragraphs (c), (e), (f) and (g) of § 230.144;

(2) Such person or party is not an affiliate of the issuer and a period of at least two years, as determined in accordance with paragraph (d) of § 230.144, has elapsed since the date the securities were issued in such transaction, and the issuer meets the requiremens of paragraph (c) of § 230.144; or

(3) Such person or party is not, and has not been for at least three months, an affiliate of the issuer and a period of at least three years, as determined in accordance with paragraph (d) of § 230.144, has elapsed since the date the securities were issued in such transaction.

* * * * *

By the Commission,
Jonathan G. Katz,
Secretary.
October 25, 1988.

Concurring Statement of Commissioner Fleischman

The Committee paper cited in footnote 69 to the Commission's Release is now nearing the tenth anniversary of its publication. In that paper a "distinctive and definable" secondary market for resales of institutionally-held, privately-placed debt securities is described at some length [1] and, as part of the analysis of the availability of the section 4(1) and section 4(3) exemptions for such resales, the operation of that market in essentially the manner described is predicated in order to assess whether the " 'factors' relevant to a determination of the *absence* of a 'distribution' " are met with respect to resales effected in that market.[2]

While my own experience sustains the thesis that the market to which the Committee paper refers continues to function as described, personal experience is not acceptable as a basis for Commission rulemaking, and in any event my direct knowledge ended nearly three years ago. Therefore, with respect to paragraph (d)(1) of proposed Rule 144A, I shall appreciate additional comments on the extent to which the Committee paper is accurate in 1988–89 in its description of the secondary market for institutionally-held, privately-placed securities of all types, with particular reference to whether the commenters believe that the conclusion that factors relevant to determining the absence of a distribution are met [3] is sustained by the manner in which that market presently operates.

Otherwise, I heartily concur in the Commission's action in proposing Rule 144A.

[FR Doc. 88-25068 Filed 10-31-88; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13 88-19]

Drawbridge Operation Regulations; Isthmus Slough, OR

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Oregon Department of Transportation (ODOT), the Coast Guard is considering a change to the regulations for the bascule bridge across Isthmus Slough, mile 1.0, at Coos Bay, Oregon. This change would require that 24 hours advance notice be given for bridge openings. The current regulation requires 4 hours notice. ODOT desires to change the locking mechanism of the bridge from electrical to manual. This mode of operation will require sending a crew to the bridge to open the draw. The proposed regulation would enable the bridge to be operated in a more economical, but slower fashion. It has not opened for the passage of a vessel since 1983.

DATE: Comments must be received on or before December 16, 1988.

ADDRESSES: Comments should be mailed to Commander (ob), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3410. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, indentify the bridge, and give reasons for concurrence with, or any recommended changes in, the proposal. Persons desiring acknowledgement that their comments have been received should include a stamped, self-addressed postcard or envelope. The Commander, Thirteenth Coast Guard District, will evaluate all communications and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are: Austin Pratt, project officer, and Lieutenant Commander Lawrence I. Kiern, project attorney.

Discussion of the Proposed Regulations

The Oregon Department of Transportation has asked the Coast Guard to approve a change to the operating regulations which would require that vessels request openings at least 24 hours in advance of the time they wish to pass the isthmus Slough Bridge. This change would allow the bridge owner to convert the locking mechanism to a manual model that would require less maintenance. A crew would then be dispatched to operate the bridge. Since 1973 the regulations have required 4 hours advance notice for opening of the drawspan. Records show a decline in openings since 1973 and the bridge has not opened for a vessel since 1983. Before this time a lumber company located upstream of the bridge shipped out finished products on vessels large enough to require the bridge to open. This is no longer the case. The waterway continues to be used commercially for log towing, but all vessels presently navigating Isthmus Slough are able to pass under the bridge while it is closed. The proposed regulation would permit the bridge owner to reduce maintenance costs and still serve the reasonable needs of navigation on Isthmus Slough.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that full regulatory evaluation is unnecessary. Navigation and marine related interests will not be significantly affected by this proposed rule because the subject bridge is opened infrequently for vessels. The reasonable needs of these interests would still be met by the proposed operating regulation. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

[1] Committee paper at 1931–37.
[2] *Id.* at 1948 (emphasis in original).
[3] *See* text of the Release accompanying notes 144 and 148.

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. Section 117.879 is revised to read as follows:

§ 117.879 Isthmus Slough.

The draw of the Oregon State secondary highway bridge, mile 1.0, at Coos Bay, shall open on signal if at least 24 hours notice is given.

Dated: October 20, 1988.

R.E. Kramek,

Rear Admiral, Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 88–25233 Filed 10–31–88; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 585, 587 and 588

[Docket No. 88–24]

Regulations To Adjust or Meet Conditions Unfavorable To Shipping in the Foreign Trade of the United States; Actions To Address Adverse Conditions Affecting U.S.-Flag Carriers That Do Not Exist for Foreign Carriers in the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to add a new part to its regulations to implement the Foreign Shipping Practices Act of 1988. The new part sets forth general procedures for investigatory proceedings to address adverse conditions affecting U.S.-flag carriers that do not exist for foreign carriers in the United States. The Commission also proposes to amend its rules implementing section 19(1)(b) of the Merchant Marine Act, 1920 and section 13(b)(5) of the Shipping Act of 1984, to add new sanctions made available to the Commission in proceedings under those statutes, pursuant to the Foreign Shipping Practice Act.

DATES: Comments due January 15, 1989.

ADDRESS: Comments (Original and fifteen (15) copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5725.

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

SUPPLEMENTARY INFORMATION: The Omnibus Trade and Competitiveness Act of 1988, recently enacted by Congress and effective with the President's signing on August 23, 1988, contains at Title X, Subtitle A, the Foreign Shipping Practices Act of 1988 ("1988 Act"). The 1988 Act directs the Commission to address adverse conditions affecting United States carriers in U.S.-foreign oceanborne trades, which conditions do not exist for carriers of those countries in the United States, either under U.S. law or as a result of acts of U.S. carriers or others providing maritime or maritime-related services in the U.S. The 1988 Act prescribes an investigatory-type proceeding, which may be initiated by the Commission upon its own motion or upon a petition for investigation from an interested person. It also authorizes the Commission to require any person to furnish to the Commission any material or information which it considers necessary or appropriate. Upon determining that adverse conditions exist, the Commission is directed to take appropriate action to offset those conditions. The actions, or sanctions, authorized for the administration of the 1988 Act are also made by that statute applicable to the administration and enforcement of section 13(b)(5) ("section 13(b)(5)") of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1712(b)(5), and section 19(1)(b) ("section 19") of the Merchant Marine Act, 1920 ("1920 Act"), 46 U.S.C. app. 876(1)(b). The Commission regulations implementing those provisions are codified at 46 CFR Parts 585 and 587.

The rules proposed herein to implement the 1988 Act largely track the language of the statue itself. The proposal also parallels, where appropriate, the regulations implementing sections 19 of the 1920 Act and 13(b)(5) of the 1984 Act. The more significant departures from the language of existing regulations or of the statute itself are discussed herein.

In the proposed rules's definitions section, § 588.2, the defintions repeat those in the 1988 Act, with two exceptions. One is the definition of "United States carrier." The statute's definitions of foreign and United States carriers are such that the two may overlap to some degree. A foreign carrier is one "a majority of whose vessels are documented under the laws of a country other than the United States." 46 U.S.C. app. 10002(a)(2). A United States carrier "operates vessels documented under the laws of the United States." 46 U.S.C. app. 10002(a)(5). Thus, an ocean common carrier which operates some U.S.-flag vessels but even a greater number of foreign-flag vessels could be argued to fit both definitions. Because it appears that the definition of foreign carrier is more specific than that of United States carrier, language has been added to the definition of the latter in the proposed rule to clarify that a carrier which meets both definitions shall be considered a foreign carrier for the purpose of the administration of the statute. The Commission has also added a definition of the term "voyage," as used in the context of assessments of a fee of up to $1,000,000 per voyage as an available action or sanction. The term is defined as an inbound or outbound movement in the oceanborne trade.

The 1988 Act provides that "any person" may petition for the initiation of an investigation under that statute. There is no requirement that the petitioning party allege harm to itself; a shipper, shippers' association, forwarder, terminal operator, or any "branch, department, agency, or other component" of the U.S. Government may file a petition for relief. The Commission is therefore not imposing any requirement that petitioners produce statistical data describing harm to U.S. carriers lest that effectively preclude parties other than the U.S. carriers themselves from being able to meet the petition-filing criteria—a result which would contravene the intent of the legislation. Rather, the proposed rule contains a general requirement that petitioners present evidence of the existence of adverse conditions, and requires statistical data documenting the alleged harm only if available to the petitioner. This flexibility as to the *type* of evidence presented should not be viewed as an indication that a mimimal *amount* of evidence is expected or acceptable in these proceedings. It is important that petitions contain as much information as is obtainable and producible, particularly inasmuch as the Commission intends to review petitions expeditiously to determine whether sufficient factual basis exists to justify the initiation of an investigation, and also because the time limits imposed by the 1988 Act preclude the protracted development of a factual record during the course of a proceeding.

The 1988 Act at section 10002(d) authorizes the Commission to require any person to file under oath any material or information which the Commission considers necessary or appropriate. It also states that the Commission "may, in its discretion," determine that any information submitted to it in response to a request for information, "or otherwise," shall be withheld from public disclosure. This provision is clear that a grant of confidentiality is permissive, not mandatory, and is within the discretion of the Commission. To this end, the proposed rule at § 588.6(c) invites persons submitting information or comments, whether voluntarily or

pursuant to a section 10002(d) information demand or subpoena, to advise the Commission whether they wish their submission to remain confidential, and why. Such advice will not itself determine whether the submission will be subject to disclosure, but will simply assist the Commission in making that determination. It should be noted, therefore, that a request for confidentiality will not necessarily ensure such treatment by the Commission. In the event, however, that a request for confidentiality is not accommodated, the person making the request will be so advised before the subject information is disclosed.

Consistent with the 1988 Act, § 588.8 of the proposed rule enumerates some of the actions against foreign carriers which the Commission may take, and also authorizes "any other action" found necessary to effectuate the statute. The enumerated actions are not, in either the statute or the regulations, intended to constitute an exhaustive list; the statute states that Commission action "may include" the four cited sanctions, and the proposed rule emphasizes that said action "is not limited to" those sanctions. A more comprehensive list of actions has not been attempted lest such a list prove too restrictive or confining to the Commission, thereby diminishing the flexibility and discretion which the statute intends the Commission to exercise in offsetting adverse conditions. It is the Commission's intention to impose, to the extent administratively feasible, sanctions under this section which are carefully crafted so as to meet effectively the adverse foreign shipping practices, while minimizing the likelihood of causing undue or unnecessary disruption to the trade or harm to innocent third parties.

The statute directs the Commission, before a "determination" that adverse conditions exist becomes effective, to submit the "determination" immediately to the President, who may then disapprove it within ten days for reasons of national defense or foreign policy. One could read the statute as using the term "determination" to refer to the finding of the existence of conditions and the term "actions" to mean the sanctions to be imposed by the Commission upon a determination that such conditions exist. It does not appear, however, that a mere "determination" is what the statute intends be submitted to the President, but rather that the Commission also submit its proposed *actions, i.e.,* the prescribed remedy. This interpretation is supported by the Summary of the Conference Agreement on H.R. 3 (April 19, 1988), which states at page 55:

> Before the FMC takes any *action*, the FMC must submit it to the President, who may disapprove the *proposed action* on national defense or foreign policy grounds.

(Emphasis added.) Such an interpretation would also appear to better meet the objectives of the statute, in that it is unlikely the President could evaluate national defense and foreign policy implications of a mere determination that adverse conditions exist, absent knowledge of the proposed actions to meet those conditions. Therefore, the proposed rule at § 588.8(c) requires the submission to the President of both the Commission's determination as to adverse conditions, and its proposed actions.

Section 19 of the 1920 Act and section 13(b)(5) of the 1984 Act are implemented at 46 CFR Parts 585 and 587 of the Commission's regulations. Sections 585.9 and 587.7 of those regulations enumerate the "actions" or "sanctions" available to the Commission when invoking remedies under sections 19 and 13(b)(5). It is proposed herein that each of these regulatory provisions be amended to incorporate the additional actions made applicable to sections 19 and 13(b)(5) proceedings by the 1988 Act, including the requests to other U.S. governmental departments authorized by section 10002(f) of the 1988 Act. Some of these newly available actions are similar to but somewhat broader than the existing regulatory language for sections 19 and 13(b)(5), and in those instances, it is proposed that the existing provisions be replaced by the "new" sanctions. Other language authorizing entirely new types of actions has also been added.

Finally, the 1988 Act requires the Commission to include certain information relevant to the administration of the statute in the Commission's annual report to Congress. Because that reporting requirement is imposed only on the Commission and does not directly affect the implementation of the statue, it was not included in the regulations themselves.

The Federal Maritime Commission has determined that this proposed rule is not a "major rule" as defined in Executive Order 12291, 46 FR 12193, February 27, 1981, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., that this proposed rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

In accordance with 44 U.S.C. 3518(c)(1)(B), and except for investigations undertaken with reference to a category of individuals or entities (e.g., an entire industry), any information request or requirement in this part is not subject to the requirements of section 3507(f) of the Paperwork Reduction Act because such collection of information is pursuant to a civil, administrative action or investigation by an agency of the United States against specific individuals or entities.

List of Subjects

46 CFR Part 585

Administrative practice and procedure, Maritime carriers.

46 CFR Part 587

Administrative practice and procedure, Confidential business information, Foreign trade, Maritime carriers, Trade practices, Transportation.

Therefore, pursuant to 5 U.S.C 553; section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. app. 876(1)(b)); sections 13(b)(5), 15 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1712(b)(5), 1714 and 1716); Reorganization Plan No. 7 of 1961 (75 Stat. 840); and section 10002 of the Foreign Shipping Practices Act of 1988, the Federal Maritime Commission proposes to amend parts 585 and 587 and to add a new part 588 to Title 46 of the Code of Federal Regulations as follows:

PART 585—[AMENDED]

1. The authority citation for Part 585 is revised to read as follows:

Authority: 5 U.S.C. 553; sec. 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. app. 876(1)(b)); secs. 15 and 17 of the Shipping Act

of 1984 (46 U.S.C. app. 1714 and 1716); Reorganization Plan No. 7 of 1961 (75 Stat. 840); sec. 10002 of the Foreign Shipping Practices Act of 1988.

2. In § 585.9, paragraphs (b), (c), and (d) are revised and paragraphs (e), (f), (g) and (h) are added to read as follows:

§ 585.9 Actions to meet conditions unfavorable to shipping in the foreign trade of the United States

* * * * *

(b) Limitations on sailings to and from United States ports or on the amount or type of cargo carried;

(c) Suspension, in whole or in part, of any or all tariffs filed with the Commission, including the right of an ocean common carrier to use any or all tariffs of conferences in United States trades of which it is a member for such period as the Commission specifies;

(d) Suspension, in whole or in part, of the right of an ocean common carrier to operate under an agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers;

(e) Imposition of a charge, not to exceed $1,000,000 per inbound or outbound movement between a foreign country and the United States by a vessel engaged in the United States oceanborne trade;

(f) A request to the collector of customs at any port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes, 46 U.S.C. app. 91, to any vessel of a foreign carrier which is or whose government is identified as contributing to the unfavorable conditions described in § 585.3 of this part;

(g) A request to the Secretary of the department in which the Coast Guard is operating to deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier which is or whose government is identified as contributing to the unfavorable conditions described in § 585.3 of this part to any port or place in the United States or the navigable waters of the United States, or to detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States; and

(h) Any other action the Commission finds necessary and appropriate in the public interest to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

PART 587—[AMENDED]

3. The authority citation for Part 587 is revised to read as follows:

Authority: 5 U.S.C. 553; secs. 13(b)(5), 15 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1712(b)(5), 1714, and 1716; sec. 10002 of the Foreign Shipping Practices Act of 1988.

4. In § 587.7, paragraphs (b)(2) and (4) are revised and paragraphs (b)(5), (6), (7) and (8) are added to read as follows:

§ 587.7 Decision; sanctions; effective date.

* * * * *

(b) * * *

(2) Limitations on sailings to and from United States ports or on the amount of type of cargo carried;

* * * * *

(4) Suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers;

(5) Imposition of a charge not to exceed $1,000,000 per inbound or outbound movement between a foreign country and the United States by a vessel engaged in the United States oceanborne trade;

(6) A request to the collector of customs at any port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes, 46 U.S.C. app. 91, to any vessel of a foreign carrier which is or whose government is identified as contributing to the conditions described in § 587.2 of this part;

(7) A request to the Secretary of the department in which the Coast Guard is operating to deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier which is or whose government is identified as contributing to the conditions described in § 587.2 of this part to any port or place in the United States or the navigable waters of the United States, or to detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States; and

(8) Any other action the Commission finds necessary and appropriate to address conditions unduly impairing access of a U.S.-flag vessel to trade between foreign parts.

5. A new Part 588 is added to Subchapter D to read as follows:

PART 588—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

Sec.

Authority: 5 U.S.C. 553; Pub. L. 100-418, sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a)

§ 588.1 Purpose.

It is the purpose of the regulations of this part to establish procedures to implement the Foreign Shipping Practices Act of 1988, which authorizes the Commission to take action against foreign carriers, whose practices or whose government's practices result in adverse conditions affecting the operations of United States carriers, which adverse conditions do not exist for those foreign carriers in the United States. The regulations of this part provide procedures for investigating such practices and for obtaining information relevant to the investigations, and also afford notice of the types of actions included among those the Commission is authorized to take.

§ 588.2 Definitions.

For the purposes of this part:

(a) "Common carrier," "marine terminal operator," "non-vessel-operating common carrier", "ocean common carrier," "person," "shipper," "shippers' association," and "United States" have the meanings given each such term, respectively, in section 3 of the Shipping Act of 1984 (46 U.S.C. app. 1702);

(b) "Foreign carrier" means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States;

(c) "Maritime services" means port-to-port carriage of cargo by the vessels operated by ocean common carriers;

(d) "Maritime-related services" means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and

their foreign domiciled affiliates on their own and others' behalf;

(e) "United States carrier" means an ocean common carrier which operates vessels documented under the laws of the United States and which does not also meet the definition of "foreign carrier" above;

(f) "United States oceanborne trade" means the carriage of cargo between the United States and a foreign country, whether direct or indirect, by an ocean common carrier; and

(g) "Voyage" means an inbound or outbound movement between a foreign country and the United States by a vessel engaged in the United States oceanborne trade. Each inbound or outbound movement constitutes a separate voyage.

§ 588.3 Scope.

The Commission shall take such action under this part as it considers necessary and appropriate when it determines that any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country, result in conditions that adversely affect the operations of United States carriers in United States oceanborne trade, and do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

§ 588.4 Petitions.

(a) A petition for investigation to determine the existence of adverse conditions as described in § 588.3 may be submitted by any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States. Petitions for relief under this part shall be in writing, and filed in the form of an original and fifteen copies with the Secretary, Federal Maritime Commission, Washington, DC 20573.

(b) Petitions shall set forth the following:

(1) The name and address of the petitioner;

(2) The name and address of each party (foreign government, agency or instrumentality thereof, carrier, or other person) against whom the petition is made, a statement as to whether the party is a foreign government, agency or instrumentality thereof, and a brief statement describing the party's function, business or operations;

(3) A precise description and, if applicable, citation of any law, rule, regulation, policy or practice of a foreign government or practice of a foreign carrier or other person causing the conditions complained of;

(4) A certified copy of any law, rule, regulation or other document involved and, if not in English, a certified English translation thereof;

(5) Any other evidence of the existence of such laws and practices, evidence of the alleged adverse effects on the operations of United States carriers in United States oceanborne trade, and evidence that foreign carriers of the country involved are not subjected to similar adverse conditions in the United States;

(6) With respect to the harm already caused, or which may reasonably be expected to be caused, the following information, if available to petitioner:

(i) Statistical data documenting present or prospective cargo loss by United States carriers due to foreign government or commercial practices for a representative period, if harm is alleged on that basis, and the sources of the statistical data;

(ii) Statistical data or other information documenting the impact of the foreign government or commercial practices causing the conditions complained of, and the sources of those data; and

(iii) A statement as to why the period used is representative.

(7) A separate memorandum of law or a discussion of the relevant legal issues; and

(8) A recommended action, including any of those enumerated in § 588.8, the result of which will, in the view of the petitioner, address the conditions complained of.

(c) A petition which the Commission determines fails to comply substantially with the requirements of paragraph (b) of this section shall be rejected promptly and the person filing the petition shall be notified of the reasons for such rejection. Rejection is without prejudice to filing of an amended petition.

§ 588.5 Investigations.

(a) An investigation to determine the existence of adverse conditions as described in § 588.3 may be initiated by the Commission on its motion or on the petition of any person pursuant to § 588.4. An investigation shall be considered to have been initiated for the purposes of the time limits imposed by the Foreign Shipping Practices Act of 1988 upon the publication in the **Federal Register** of the Commission's notice of investigation, which shall announce the initiation of the proceeding upon either the Commission's own motion or the filing of a petition.

(b) The provisions of Part 502 of this chapter (Rules of Practice and Procedure) shall not apply to this part except for those provisions governing *ex parte* contacts (§ 502.11 of this chapter) and except as the Commission may otherwise determine by order. The precise procedures and timetables for participation in investigations initiated under this part will be established on an *ad hoc* basis as appropriate and set forth in the notice. Proceedings may include oral evidentiary hearings, but only when the Commission determines that these are likely to be genuine issues of material fact that cannot be resolved on the basis of written submissions, or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. In any event, investigations initiated under this part shall proceed expeditiously, consistent with due process, to conform with the time limits specified in the Foreign Shipping Practices Act and to identify promptly the conditions described in § 588.3 of this part.

(c) Upon initiation of an investigation, interested persons will be given the opportunity to participate in the proceeding pursuant to the procedures set forth in the notice. Submissions filed in response to a notice of investigation may include written data and statistics, views, and legal arguments. Factual information submitted shall be certified under oath. An original and 15 copies of such submissions will be filed with the Secretary, Federal Maritime Commission, Washington, DC. 20573. Persons who receive information requests from the Commission pursuant to § 588.6 of this part are not precluded from filing additional voluntary submissions in accordance with this paragraph.

(d) An investigation shall be completed and a decision rendered within 120 days after it has commenced as defined in paragraph (a) of this section, unless the Comission determines that an additional 90-day period is necessary in order to obtain sufficient information on which to render a decision. When the Commission determines to extend the investigation period for an additional 90 days, it shall issue a notice clearly stating the reasons therefor.

§ 588.6 Information demands and subpoenas.

(a) In furtherance of this part, the Commission may, by order, require any person (including any common carrier,

shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate, and in the form and within the time prescribed by the Commission. Responses to such orders may be required by the Commission to be made under oath.

(b) The Commission may issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other evidence as it deems necessary and appropriate in conducting an investigation under § 588.5 of this part.

(c) The Commission may, in its discretion, determine that any information submitted to it in response to a request (including a subpoena) under this section, or accompanying a petition under § 588.4, or voluntarily submitted by any person pursuant to § 588.5(c), shall not be disclosed to the public. To this end, persons submitting information for consideration in a proceeding or investigation under this part may indicate in writing any factors they wish the Commission to consider relevant to a decision on confidentiality under this section; however, such information will be advisory only, and the actual determination will be made by the Commission. In the event that a request for confidentiality is not accommodated, the person making the request will be so advised before any disclosure occurs.

§ 588.7 Notification to Secretary of State.

Upon the publication of a petition in the Federal Register, or on its own motion should it determine to initiate an investigation pursuant to § 588.5, the Commission will notify the Secretary of State of same, and may request action to seek regulation of the matter through diplomatic channels. The Commission may request the Secretary to report the results of such efforts at a specified time.

§ 588.8 Action against foreign carriers.

(a) Whenever, after notice and opportunity for comment or hearing, the Commission determines that the conditions specified in § 588.3 of this part exist, the Commission shall take action as it considers necessary and appropriate against any foreign carrier which it identifies as a contributing cause to, or whose government is a contributing cause to, such conditions, in order to offset such conditions. Such action may include, but is not limited to:

(1) Limitations on sailing to and from United States ports or on the amount or type of cargo carried;

(2) Suspension, in whole or in part, of any or all tariffs filed with the Commission, including the right of an ocean common carrier to use any or all tariffs of conferences in United States trades of which it is a member for such period as the Commission specifies;

(3) Suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers;

(4) Imposition of a charge, not to exceed $1,000,000 per voyage;

(5) A request to the collector of customs at any port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes 46 U.S.C. app. 91, to any vessel of a foreign carrier that is identified by the Commission under this section;

(6) A request to the Secretary of the department in which the Coast Guard is operating to deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier that is identified by the Commission under this section to any port or place in the United States or the navigable waters of the United States, or to detain any such vessel at the port or place in the United States from which it is about to depart for any port or place in the United States; and

(7) Any other action the Commission finds necessary and appropriate to address adverse foreign shipping practices as described in § 588.3 of this part.

(b) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate U.S. Government agencies prior to taking any action under this section.

(c) Before any action against foreign carriers under this section becomes effective or a request under this section is made, the Commission's determination as to adverse conditions and its proposed actions and/or requests shall be submitted immediately to the President. Such actions will not become effective not requests made if, within 20 days of receipt of the Commission's determination and proposal, the President disapproves it in writing, setting forth the reasons for the disapproval, if the President finds the disapproval is required for reasons of the national defense or the foreign policy of the United States.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 88-25176 Filed 10-31-88; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Refuge-Specific Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) would amend certain regulations in 50 CFR Part 33 that pertain to fishing on individual national wildlife refuges (NWRs). Refuge fishing programs are reviewed annually to determine whether the regulations governing fishing on individual refuges should be modified. Changing environmental conditions, State and Federal regulations and other factors affecting fish populations and habitats may warrant such amendments. The modifications would ensure the continued compatibility of fishing with the purposes for which the individual refuges involved were established, and to the extent practical, make refuge fishing programs consistent with State regulations.

DATE: Comments must be received on or before December 1, 1988.

ADDRESS: Send comments to: Assistant Director, Refuges and Wildlife, Fish and Wildlife Service, Room 2343, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Larry LaRochelle, Division of Refuges, Fish and Wildlife Service, 18th and C Streets NW., Washington, DC 20240; Telephone 202-343-4313.

SUPPLEMENTARY INFORMATION: 50 CFR Part 33 contains the provisions that govern fishing on NWRs. Fishing is regulated on refuges to (1) ensure compatibility with refuge purposes, (2) properly manage, the fishery resource and (3) protect other refuge values. On many refuges, the Service policy of adopting State fishing regulations is an adequate way of meeting these objectives. On other refuges it is necessary to supplement State regulations with refuge-specific fishing regulations which will ensure that the Service meets its management

responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific fishing regulations are issued only after the final publication of the opening of a wildlife refuge to fishing. These regulations may list the seasons, methods of taking fish, descriptions of open areas and other provisions. The Service previously issued refuge-specific fishing regulations in 50 CFR Part 33.

This proposed rule would amend and supplement certain refuge-specific regulations in 50 CFR Part 33, §§ 33.8 through 33.51, which pertain to fishing on individual refuges in their respective alphabetically listed State.

The policy of the Department of the Interior (Department) is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding the proposed amendments to refuge-specific fishing regulations. Accordingly, interested persons may submit written comments, suggestions or objections concerning this proposal to the Assistant Director, Refuges and Wildlife (address above), by the end of the comment period. All substantive comments will be considered by the Department prior to issuance of a final rule.

Conformance with Statutory and Regulatory Authorities The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act (RRA) of 1962 (16 U.S.C. 460k) govern the administration and public use of NWRs. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior (Secretary), under such regulations as he may prescribe, to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations and access when he determines that such uses are compatible with the major purposes for which such areas were established.

The RRA authorizes the Secretary to administer refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. The RRA also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Fishing plans are developed for each fishing program on a refuge prior to its opening to fishing. In many cases, refuge-specific fishing regulations are included as part of fishing plans to ensure the compatibility of the fishing programs with the purposes for which the refuge was established. Compliance with the NWRSAA and RRA is ensured when fishing plans are developed and the determinations required by these Acts are made prior to the addition of the refuge to the list of areas open to fishing in 50 CFR Part 33. Continued compliance is ensured by annual review of fishing programs and regulations.

Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The proposed amendments to the codified refuge-specific fishing regulations would make relatively minor adjustments to existing fishing programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, State or local governments, agencies or geographic regions. The benefits accruing to the public are expected to exceed the costs of administering this rule. Accordingly, the Department has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB under # 1018-0014 Economic and Public Use Permits. Public reporting burden for these forms is estimated to average .1038 hours or 6.2 minutes per response for a total burden for all forms used of 15,146 hours, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of these forms to Information Collection Office, U.S. Fish and Wildlife Service, Washington, DC 20240; and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) is ensured when fishing plans are developed and the determinations required by these Acts are made prior to the addition of refuges to the list of areas open to sport fishing in 50 CFR Part 33. Refuge-specific fishing regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular refuge. The changes proposed in this rulemaking would not significantly alter the existing uses of the refuges involved.

Information regarding the conditions that apply to individual refuge fishing programs, any restrictions related to public use on the refuge and a map of the refuge are available at refuge headquarters. This information can also be obtained from the Regional Offices of the Service at the addresses listed below.

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington: Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Multnomah Street, Portland, Oregon 97232; Telephone (503) 231-6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas: Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 7656-1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin: Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725-3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico, Tennessee and the Virgin Islands: Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B.

Russell Federal Building, 75 Spring Street SW., Atlanta, Georgia 30303; Telephone (404) 331–3588.

Region 5—Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia: Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, Telephone (617) 965–9222.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–7920.

Region 7—Alaska: Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786–3538.

Larry LaRochelle, Division of Refuges, Fish and Wildlife Service, Washington, DC, is primary author of this proposed rulemaking document.

List of Subjects in 50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

PART 33—[AMENDED]

Accordingly, it is proposed to amend Part 33 of Chapter I of Title 50 of the *Code of Federal Regulations* as set forth below:

1. The authority citation for Part 33 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd and 715i.

Refuge-Specific Fishing

2. Section 33.8 would be amended by redesignating paragraphs (b) through (e) as paragraphs (c) through (f), adding new paragraph (b); and revising newly redesignated paragraph (d) to read as follows:

§ 33.8 Arkansas.

* * * * *

(b) *Cache River National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing or entry is not permitted in the waterfowl sanctuary areas from November 1 through February 28.

(2) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

* * * * *

(d) *Holla Bend National Wildlife Refuge.* Fishing, boating and frogging are permitted subject to the following conditions:

(1) Fishing and boating in all waters from March 1 through October 31 only from one-half hour before sunrise to one-half hour after sunset.

(2) Frogging from April 15 through October 31 only on that part of the old river channel that connects to the Arkansas River channel.

* * * * *

3. Section 33.9 would be amended by revising paragraph (i) to read as follows:

§ 33.9 California.

* * * * *

(i) *Salton Sea National Wildlife Refuge.* Fishing is permitted only on designated areas of the refuge inundated by the Salton Sea subject to the following conditions:

(1) Fishing is permitted from April 1 through September 30.

(2) Only boat fishing is permitted.

* * * * *

4. Section 33.13 would be amended by revising paragraph (g)(1), adding two new sentences to the end of paragraph (g)(2) and revising (m)(4) as follows:

§ 33.13 Florida.

* * * * *

(g) *Lower Suwanee National Wildlife Refuge.** * *

(1) Fishing is permitted in interior creeks, sloughs and ponds from March 1 through October 31 only from sunrise to sunset except that fishing is not permitted in interior creeks, sloughs and ponds during quota big game hunts.

(2) * * * Boats are not permitted in refuge ponds. Boats may not be left on the refuge overnight.

* * * * *

(m) *St. Vincent National Wildlife Refuge.** * *

* * * * *

(4) Fishing seasons and largemouth bass length limits are as posted.

* * * * *

5. Section 33.17 would be amended by revising (a) (1) through (3), removing paragraph (a)(4); revising the last sentence of (b)(1), correcting the spelling of the word "Managers" in (b)(2), adding a last sentence to paragraph (b)(3), adding paragraphs (b) (4) through (6); revising paragraph (c)(1), removing paragraph (c)(6) as follows:

§ 33.17 Illinois.

(a) *Chautauqua National Wildlife Refuge.** * *

(1) From December 15 through October 15 bank fishing is permitted and all refuge waters are open to fishing. From October 16 through December 14 fishing is permitted in the posted area that extends one-eighth of a mile around the Recreation Area, along Goofy Ridge Ditch, along the cross dike, and in all waters within the Public Hunting Area. Fishing is permitted during daylight hours only.

(2) The use of boats with motors greater than 25 horsepower is prohibited.

(3) Private boats must be removed from refuge waters overnight or moored at Boatyard No. 3.

(b) Crab Orchard National Wildlife Refuge.* * *

(1) * * * All noncommercial fishing methods are permitted except underwater breathing apparatus is prohibited.

(2) * * * Managers.* * *

(3) * * * It is unlawful to take largemouth bass between 12" to 15" in length from these lakes.

(4) Largemouth bass under 15" in length may not be taken from A–41, Bluegill, Blue Heron, Managers and Honkers Ponds.

(5) Largemouth bass under 21" in length may not be taken from Visitors Pond.

(6) It is unlawful to take catfish from their beds by submerging any object except hands under the water.

(c) Mark Twain National Wildlife Refuge.* * *

(1) Fishing is permitted all year in the Big Timber and Gardner Divisions.

6. Section 33.18 would be amended by adding paragraph (a)(6) as follows:

§ 33.18 Indiana.

(a) Muscatatuck National Wildlife Refuge.* * *

* * * * *

(6) Frogs and turtles may be taken by hook and line during daylight hours from areas open to fishing.

7. Section 33.22 would be amended by revising paragraph (f) to read as follows:

§ 33.22 Louisiana.

* * * * *

(f) Sabine National Wildlife Refuge.* * *

(1) Only fishing with rod and reel or pole and line is permitted. Shrimp may be taken only with a cast net. Crabs and crayfish may be taken only with ring nets up to 18 inches in diameter or hand lines. The use or possession of any other type of fishing, crabbing, crayfishing, and shrimping gear is prohibited except that persons using Hog Gulley, Headquarter, or West Cove Canals may only transport shrimp trawls, butterfly nets, or other nets from the boat ramps to Calcasieu Lake and return with their

catch. Permits are required for sport jug fishing and gill netting.

(2) Fishing and public access is permitted from March 1 through October 15 on designated waterways and pools. Only bank fishing along Highway 27 is permitted year round.

(3) Fishing, crabbing, crayfishing, and shrimping is permitted from one hour before sunrise to one hour after sunset.

(4) Fishing in the East Cove unit is permitted year round except during the regular State duck hunting season. A 250-foot zone around Grand Bayou and Lambert Bayou water control structure is closed to public access and use except that boat access is permitted through the Grant Bayou water control structure.

(5) No person may take or possess more than 5 quarter of shrimp per vehicle per day except that the daily shrimp and possession limit is 5 gallons per vehicle during the State open inshore water season. Daily crab and crayfish limit is 100 pounds each per vehicle.

(6) Boats may not be dragged across levees. Outboard motors up to 25 horsepower are permitted in refuge pools. Outboard motors may be operated in designated refuge canals, waterways, and pools. The operation of any type of boat motor in the refuge marshes is prohibited.

* * * * *

8. Section 33.37 would be amended by amending (b)(2) by adding new words to the end of the sentence, revising paragraph (b)(5), adding paragraphs (b)(6) and revising (c)(3) as follows:

§ 33.37 North Carolina.

* * * * *

(b) Mattamuskeet National Wildlife Refuge.* * *

* * * * *

(2) * * * from one-half hour before sunrise to one-half hour after sunset except that the Highway 94 causeway is open to fishing and crabbing 24 hours per day.

* * * * *

(5) Airboats and sailboats are not permitted.

(6) Bank fishing is prohibited along the entrance road from Highway 94 to the Refuge Headquarters.

(c) Pee Dee National Wildlife Refuge * * *

* * * * *

(3) Only nonmotorized boats and boats with electric motors are permitted on Arrowhead Lake, Andrews Pond and Beaver ponds.

* * * * *

9. Section 33.40 would be amended by redesignating (a) through (e) as (b) through (f) and adding new paragraph (a) to read as follows:

§ 33.40 Oklahoma.

(a) *Little River National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in the area designated on the refuge fishing map brochure.

(2) Access to refuge fishing is limited to designated roads and trails.

* * * * *

10. Section 33.41 would be amended by revising paragraph (g)(2) and adding paragraphs (3) through (5) as follows:

§ 33.41 Oregon.

(g) Umatilla National Wildlife Refuge * * *

* * * * *

(2) Only nonmotorized boats are permitted on refuge impoundments and ponds.

(3) Fishing is permitted only from 5:00 a.m. to 10:00 p.m.

(4) Impoundments and ponds in the Boardman Unit are closed to fishing.

(5) Bowfishing is prohibited.

* * * * *

11. Section 33.46 would be amended by revising the second sentence and adding a third sentence to paragraph (a)(7), revising paragraphs (e)(1), removing paragraph (e)(3) and adding paragraph (f) as follows:

§ 33.46 Tennessee.

(a) Cross Creeks National Wildlife Refuge * * *

* * * * *

(7) * * * Largemouth bass from 12 inches to 15 inches must be immediately released unharmed. Possession of largemouth bass between 12 and 15 inches is prohibited.

* * * * *

(e) Reelfoot Lake National Wildlife Refuge * * *

(1) Fishing is permitted on the Long Point Unit (north of Upper Blue Basin) from March 15 through October 15 and on the Grassy Island Unit (south of the Upper Blue Basin) from February 1 through November 15.

* * * * *

(f) *Tennessee National Wildlife Refuge.* Fishing is permitted on designated portions of the refuge subject to the following conditions.

(1) The Duck River Bottoms and Busseltown Unit are closed to boat fishing from November 1 through March 15.

(2) Swamp Creek, Button Ford and Bennett's Creek embayments are closed to fishing from November 1 through March 15.

(3) Boats are restricted to "slow speed/minimum wake" on all refuge impoundments open to fishing.

12. Section 33.47 would be amended by adding (b) (4) and (5) and revising paragraph (d) as follows:

§ 33.47 Texas.

* * * * *

(b) *Aransas National Wildlife Refuge*

* * *

* * * * *

(4) Fishermen must be off the refuge by dark.

(5) Fishermen must satisfy the Entrance Fee requirement authorized by the Emergency Wetlands Resources Act.

(d) *Hagerman National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) All refuge waters are open to fishing from April 1 through September 30.

(2) Fishing is restricted to the shoreline of Lake Texoma and Big Mineral Creek from October through March 31. Lines may not be attached to rubber bands, sticks, poles, trees or other fixed objects and are not permitted in refuge ponds as impoundments.

(3) Trotlines may be strung between anchored floats only. Lines may not be attached to rubber bands, sticks, poles, trees or other fixed objects and are not permitted in refuge ponds as impoundments.

(4) Fishing is not permitted from bridges or roadways.

* * * * *

13. Section 33.51 would be amended by by revising (b) (1) through (2) and adding (b) (4) through (5) to read as follows:

§ 33.51 Washington.

(b) *McNary National Wildlife Refuge* * * *

(1) Fishing is permitted on the Hanford Islands and Strawberry Divisions from July 1 through September 30.

(2) Fishing is permitted on the McNary Division from February 1 through September 30.

* * * * *

(4) Fishing is permitted only from sunrise to sunset.

(5) Bowfishing is prohibited.

* * * * *

Dated: September 22, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-24905 Filed 10-31-88; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 81008-8208]

Fee Schedule for Foreign Fishing

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes the 1989 fee schedule for foreign vessels fishing in the exclusive economic zone (EEZ). Under this fee schedule, owners or operators of foreign vessels would pay $354 per fishing permit application and $6.420 million of the FY 1988 Magnuson Fishery Conservation and Management Act (Magnuson Act) costs in poundage fees. No surcharge is proposed for the Fishing Vessel and Gear Damage Compensation Fund. Comments are requested on this fee schedule. This action complies with section 204(b)(10) of the Magnuson Act.

DATES: Comments must be received on or before December 1, 1988.

ADDRESSES: Send comments to: Fees and Permits Branch, F/CM, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD 20910 or telex 467856 US COM FISH CI. Mark envelopes "Foreign Fees."

Copies of the regulatory impact review (RIR) are available at this address.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, 202-673-5319.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of permit application and poundage fees for fishing during 1989 by foreign vessels in the EEZ. The new schedule would target collections of about $6.620 million from foreign fishing in 1989 but would not require an additional amount under provisions of Pub. L. 99-272. These amounts are set for the reasons described below. NOAA has consulted with the Coast Guard and the Department of State (DOS) on this proposal. The Department of State agrees with its publication for public comments.

NOAA is publishing the proposed 1989 fee schedule as a single unit containing both foreign poundage and permit application fees. Readers are advised, however, that the final fees may be published separately should there be delays in adopting either final poundage or final permit application fees.

Background

Subparagraph 204(b)(10)(B) of the Magnuson Act requires the Secretary of Commerce to impose fees on the owners or operators of foreign fishing vessels for which permits are issued "at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of [the Magnuson] Act during * * * fiscal year [1988] the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during [1986] bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during [1987]." (16 U.S.C. 1824(b)(10)(B)). Pub. L. 99-659 replaced references to the "fishery conservation zone" in the Magnuson Act with "exclusive economic zone."

However, if the Secretary of Commerce, in consultation with the Secretary of State, finds a fishing nation to be "harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary", or "failing to take sufficient action to benefit the conservation and development of United States fisheries", subparagraph 204(b)(10)(C) applies. Subparagraph 204(b)(10)(C) requires the Secretary to impose fees for that nation which bear to the ratio of the fish harvested by foreign vessels in the EEZ to the aggregate quantity of fish harvested by both foreign and domestic vessels in the EEZ *only*. Removing the quantity of U.S. harvested fish caught in the territorial waters from the formula increases the ratio and thereby the fees that the nation must pay.

Foreign fees are assessed for the whole weight of fish harvested (poundage fees) and for processing foreign fishing applications (permit application fees).

Fees have been collected for foreign fishing since 1977 under annual schedules set forth at 50 CFR 611.22. Fees collected under these schedules were $43.4 million from 1977 through 1980, and $227.9 million from 1981 through 1987. The increase in fees since 1981 stems from the current Magnuson Act requirement to recover at least costs attributed to foreign fishing. A decrease in collected fees occurred in 1986 and continues to the present as the result of large reductions in foreign fishing. Fees collected in 1987 were $13.6 million and another reduction is expected in 1988.

The Proposed Fee Target for 1989

NOAA is changing its procedures for proposing the fee target. These changes reflect the decisions made in the final rule on the 1988 foreign fishing fees, (53 FR 134, January 5, 1988). The final 1988 fees were implemented at levels which would not seriously undermine U.S. fisheries development and trade. NOAA believed that fees assessed at 44.4 percent of the exvessel value of each species harvested by foreign vessels would meet the requirements of the Magnuson Act by seeking to recover $13.5 million in final poundage fees and permit application fees. The final fees were down substantially from the $20.5 million proposed for 1988 (52 FR 42408, November 4, 1987). The difference between the proposed fees and final fees, $7.0 million, was an adjustment made by NOAA in response to a preponderance of comments onthe adverse effect of the proposed fees on U.S. efforts to develop and trade in production from the Atlantic mackerel and Pacific whiting joint venture fisheries. These are the only remaining foreign directed fisheries. Reasonable fees for the foreign catch of allocated fish are necessary to sustain joint venture operations and promote development of foreign markets for U.S. harvested mackerel and whiting. Foreign fishing companies offset expenses from joint venture operations with their directed fisheries for allocated fish to make the composite operations profitable. It is also in the U.S. interest to have foreign vessels available on grounds to process fish during peaks in U.S. joint venture deliveries.

NOAA has monitored these fisheries and found that the 1988 fees set at 44.4 percent of the exvessel value did not undermine U.S. efforts in development and trade during the year. It concluded that the 1989 fees should be continued at the same level if such fees can be shown to be appropriate under the current requirements of section 204(b)(10).

Consistency with Section 204(b)(10)

Total costs of administering the Magnuson Act increased in 1986 because of revisions in the applicable costs but have remained at about or under $200 million since that time. FY 87 costs used for the 1988 fee schedule were $186.7 million.

Section 204(b)(10) states that the foreign fees must be at least in an amount to recover costs in same ratio as the fish caught by foreign vessels relate

to the total catch in the EEZ and territorial waters. This ratio using the latest available catch statistics, i.e. catches in 1987, is 2.6 percent, see Table 1(A).

Applying the above information, NOAA is confident that a fee target in excess of $5.2 million ($200 million x 0.026) will be consistent with section 204(b)(10) because that target would be at least the amount which would be required by the Magnuson Act. Any amount in excess of that which could be determined after reviewing actual FY88 Magnuson Act costs should be attributed to a recovery of shortfalls from prior years when collected fees fell short of the fee targets computed by the Magnuson Act formula because of unanticipated reductions in foreign allocations for certain species.

Exvessel Values

The two primary species remaining for foreign allocations are Atlantic mackerel and Pacific whiting. NOAA currently projects no foreign catch of Alaska groundfish in 1989. Therefore, fishing poundage fees will be collected exclusively from the fisheries for mackerel and whiting.

TABLE 1.—ESTIMATED RATIOS OF FOREIGN CATCH TO TOTAL CATCH, 1987

(A) Including territorial waters	(MT)	(B) Excluding territorial waters	(MT)
U.S. Commercial catch [1]	4,983,241	U.S. Commercial catch [1]	4,983,241
Exclusions:		Exclusions:	
International waters	274,146	International waters	274,146
Tuna (0–200 miles)	14,878	Tuna (3–200 miles)	14,564
Freshwater (incl. G. Lakes Alewives)	68,928	All catch inside 3 miles [2]	1,847,727
U.S. Commercial catch less exclusions	4,625,289	U.S. Commercial catch less exclusions	2,846,784
Additions:		Additions:	
Correction for Mollusks [3]	717,586	Correction for Mollusks [3]	413,311
Recreational catch [4]	179,379	Recreational catch [4]	61,652
Total U.S. catch	5,522,254	Total U.S. catch	3,321,747
Foreign catch [5]	148,959	Foreign catch [5]	148,959
Total catch	5,671,213	Total catch	3,470,706
Ratio including territorial waters	2.6	Ratio excluding territorial waters	4.3

[1] This figure and all following figures for U.S. Commercial catch from pages 6–9 of "Fisheries of the United States, 1987" (Calculated in pounds and converted to metric tons). Figures may not add due to rounding.
[2] Except for Texas and west coast of Florida, where boundary line is nine nautical miles from shore. Also excludes any waters beyond three nautical miles from shore considered to be internal (E.G., areas of Puget Sound).
[3] Addition of Mollusk shells (U.S. statistics for internal use include only edible meat weight, whereas international standard includes shell weights).
[4] Based on 1987 data for Atlantic, Gulf and Pacific; 1981 data for western Pacific and Caribbean. Includes catch types A and B1 and assumes average weight of B1 is similar to A.
[5] From page 28, "Fisheries of the United States, 1987".

NOAA's experience has been that exvessel values for both species have been difficult to establish. Thus the relationship between the values of mackerel and whiting established in the 1988 fee schedule are probably as valid today for the 1989 schedule as they were for the prior year. Since the only other species taken in 1989 will be very limited bycatch amounts, NOAA proposes to adopt the exvessel values used in 1988 for the 1989 fee schedule.

The Fee Target

Based on the above and estimates of the foreign catch shown in Table 1, NOAA calculates a fee target of $6.420 million in poundage fees and $0.2 million in permit fees for a total of $6.620 million. It is calculated by multiplying the fee for a species by the estimated catch of that species in 1989. Since this target exceeds the threshold amount of $5.2 million calculated earlier, NOAA believes it is consistent with the requirements of section 204(b)(10) and based on the experience with fees at that level in 1988, will not adversely affect U.S. efforts in fishery development and trade.

In addition to the above subparagraph 204(b)(10)(C) includes a provision for higher fees in each fiscal year for any nation found to be harvesting anadromous species of U.S. origin at levels unacceptable to the Secretary or found not taking actions to benefit the conservation and development of United States fisheries. The level is determined by the ratio of foreign catch to the total catch in the EEZ only. Table 1(B) shows the 1987 catches in the EEZ and appropriate adjustments of tuna and mollusk catches. The ratio of catches so determined shows that 4.3 percent of the 1987 catch in the EEZ was taken by foreign vessels. That ratio was 17.43 percent in 1986. Nations falling under one or both of the above criteria ("high fee nations") in calendar year 1989 should pay against 4.3 percent of the total Magnuson Act costs resulting in a fee assessment rate of 73.4 percent of the exvessel value. To achieve this amount, such vessels would pay an incremental amount equal to 67.42 percent of their poundage fees in addition to the poundage fees proposed in this schedule for their catches in 1989.

TABLE 2.—ESTIMATED 1989 FOREIGN CATCH/VALUE WITH RECOVERED COSTS OF $6,420,000

Species	Fishery	Exvessel value ($/MT)	Estimated foreign catch (MT)	Estimated foreign catch value ($)	Species fee ($/MT)	Recovered costs ($)
Alaska Pollock	BSA/GOA	214	0	0	95	0
Atka Mackerel	BSA/GOA	267	0	0	119	0
Pacific Cod	BSA/GOA	324	0	0	144	0
Flatfish	BSA/GOA	187	0	0	183	0
Pacific Ocean Perch	BSA/GOA	441	0	0	196	0
Other Rockfish	BSA/GOA	734	0	0	326	0

TABLE 2.—ESTIMATED 1989 FOREIGN CATCH/VALUE WITH RECOVERED COSTS OF $6,420,000—Continued

Species	Fishery	Exvessel value ($/MT)	Estimated foreign catch (MT)	Estimated foreign catch value ($)	Species fee ($/MT)	Recovered costs ($)
Pacific Squid	BSA/GOA	169	0	0	75	0
Other Species	BSA/GOA	240	0	0	107	0
Stablefish	BSA	473	0	0	210	0
Snails	BSA	289	0	0	128	0
Sablefish	GOA	898	0	0	399	0
Jack Mackerel	WOC	573	1,200	687,600	255	305,529
Flatfish	WOC	713	40	28,520	317	12,673
Pacific Ocean Perch	WOC	721	25	18,025	320	8,009
Other Rockfish	WOC	756	295	223,020	336	99,097
Sablefish	WOC	935	69	64,515	415	28,667
Pacific Whiting	WOC	176	40,000	7,040,000	78	3,128,166
Other Species	WOC	915	200	183,000	407	81,315
Butterfish	NWA	618	5	3,090	275	1,373
Red Hake	NWA	369	0	0	164	0
Silver Hake	NWA	393	17	6,681	175	2,969
River Herring	NWA	139	64	8,896	62	3,963
Atlantic Mackerel	NWA	154	40,000	6,160,000	68	2,737,145
Squid, Illex	NWA	234	0	0	104	0
Squid, Loligo	NWA	553	4	2,212	246	983
Other Species	NWA	268	85	22,780	119	10,122
Atlantic Sharks	ABS	423	0	0	188	0
Pacific Billfish	PBS	1,965	0	0	882	0
Dolphin Fish	PBS	5,515	0	0	2,451	0
Striped Marlin	PBS	1,854	0	0	824	0
Pacific Sharks	PBS	1,103	0	0	490	0
Pacific Swordfish	PBS	2,337	0	0	1,038	0
Wahoo	PBS	2,206	0	0	980	0
Seamount Groundfish	SMT	397	0	0	176	0
Coral ($:Kilogram)	WPC	206	0	0	92	0
Totals			82,004	14,448,339		6,420,000

Application of the high rate of fees under section 204(b)(10)(C) would have the effect of undermining U.S. support for important joint venture operations. No nation will be required to pay the higher fees in 1989. Allocations for fishing will be made only to nations which are conducting joint venture operations for Pacific whiting and Atlantic mackerel. So these nations are taking actions to benefit conservation and development of the U.S. fisheries. None of the nations expected to receive allocations in 1989 have been found to be taking anadromous species of U.S. origin at unacceptable levels. The nations considered in this determination are: The European Community (the Kingdom of the Netherlands), the German Democratic Republic, the Union of Soviet Socialist Republics, the Polish People's Republic, the People's Republic of China, and the Republic of Korea. Japan has also been included although there are no allocations currently being made to that nation.

Surcharge

The surcharge for the Fishing Vessel and Gear Damage Compensation Fund is proposed to be effectively waived in 1989. The proposed waiver is consistent with the policy decision, at 53 FR 134, January 5, 1988, that the surcharge will not be used to continue capitalization of the fund beyond the projected duration of foreign fishing in the EEZ. The current balance in the fund is sufficient for that purpose.

Summary of Proposed 1989 Species Fees

The fee per ton for each species is proposed to remain unchanged from the final fee adopted in 1988. The species fees are listed in Table 1 of § 611.22(b). Section 611.22(b) and Table 1 are identical to the existing text but are reprinted for the convenience of readers. Permit application fees for 1989 will also be $354 per vessel application as in 1988. Readers should refer to 53 FR 134 and the documents referenced within that final rule for calculations on which these fees are based.

The higher fee assessment rate required by section 204(b)(10)(F) is 73.4 percent of the exvessel value of each species. This would require that vessels of any nation required to pay such fees pay an additional 67.42 percent of the species fee for their catch. However, no nation has been found to be in violation of section 204(b)(10)(F) at this time, and the higher fees will not be required in 1989.

NOAA also proposed that the surcharge for the Fishing Vessel and Gear Damage Compensation Fund be effectively waived in 1989 as it was in 1988.

Classification

NOAA prepared a regulatory impact review (RIR) that discussed the economic consequences and impacts of the final fee schedule for 1988 and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, determined that the 1988 fee schedule complied with the requirements of section 2 of E.O. 12291. Since the species fees proposed for 1989 are unchanged from 1988, NOAA anticipates no new economic impacts.

The General Counsel for the Department of Commerce has certified that the proposed fee schedule if adopted will not have significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small domestic entities, a regulatory flexibility analysis is not required, and has not been prepared.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for

significant environmental impacts are generally excluded from NEPA requirements. The proposed fee schedule has no direct impact on the fishery resources in the EEZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The environmental impact of harvesting the TALFF is described for each fishery management plan, and no further environmental assessment is necessary.

This proposed rule has no information collection provisions for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

This proposed rule would not directly affect the Coastal Zone of any state with an approved Coastal Zone Management program. Neither does the proposed rule contain policies with federalism implications sufficient to warrant a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: October 26, 1988.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. Paragraphs § 611.22(b)(1), (c) and (d) are revised as follows:

§ 611.22 Fee Schedule for foreign fishing.

* * * * *

(b) *Poundage fees.*

(1) *Rates.* If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table 1, plus the surcharge required by paragraph (d) of this section.

(c) *Incremental amount.* An additional incremental amount will be added to the poundage fee Bill for Collection for fish harvested by a nation during the first quarter of the next fiscal year following notification under paragraph (10)(C) of section 204(b) of the Magnuson Act [16 U.S.C. 1824(b)(10)(C)]. This incremental amount will be added to all subsequent quarterly bills until the quarter specified when the Assistant Administrator notifies that nation that it has taken appropriate corrective action. The incremental amount in 1989 will be 67.4 percent of the total poundage fee in each quarter during which this provision applies.

(d) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraph (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator has effectively waived the surcharge on 1989 fees.

* * * * *

TABLE 1. SPECIES AND POUNDAGE FEES

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	419.16
2. Hake, red	250.27
3. Hake, silver	266.55
4. Herring, river	94.28
5. Mackerel, Atlantic	104.45
6. Other groundfish	181.77
7. Squid, *Illex*	158.71
8. Squid, *Loligo*	375.07
Atlantic and Gulf fisheries:	
9. Shark, Atlantic	286.90
10. Shrimp, royal red	[1]
Alaska fisheries:	
11. Pollock, Alaska	145.15
12. Cod, Pacific	219.75
13. Packfic ocean perch	299.11
14. Rockfish, other	497.84
15. Mackerel, Atka	181.09
16. Squid, Pacific	114.62
17. Flounders	126.83
18. Sablefish (Gulf of Alaska)	609.70
19. Sablefish (Bering Sea and Aleutian Islands)	320.81
20. Groundfish, other	162.78
21. Snails	196.01
Pacific fisheries:	
22. Whiting, Pacific	119.37
23. Sablefish	634.17
24. Pacific ocean perch	489.02
25. Rockfish, other	512.76
26. Flounders	483.59
27. Mackerel, jack	388.64
28. Groundfish, other	620.60
Western Pacific fisheries:	
29. Coral [2]	139.72
30. Dolphin fish	3,740.56
31. Wahoo	1,496.22
32. Sharks	748.11
33. Marlin, striped	1,257.48
34. Billfish	1,346.33
35. Swordfish	1,585.07

[1] Reserved.
[2] Dollars per kilogram.

[FR Doc. 88-25260 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 53, No. 211
Tuesday, November 1, 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 Advocacy and Enterprise; Citizens' Advisory Committee on Equal Opportunity 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: Citizens' Advisory Committee on Equal Opportunity.
Date: November 16–18, 1988.
Place: University of California at Davis, Foster Room, Myer Hall, Davis, California 95616.
Time: 8:30 a.m.—5:00 p.m.
Purpose:

—Review aspects of the U.S. Department of Agriculture's policies, practices and procedures on Equal Opportunity;
—Recommend changes in Department rules, regulations, and orders to ensure USDA activities are free of discrimination;
—Advise the Secretary on the effectiveness of compliance program directives;

Additionally, the Committee will focus on:

—Handicap accessibility and accommodations for handicap persons, and;
—Small Scale Agriculture.

The meeting is open to the public. Persons may participate in the meeting as time and space permit. Persons who wish to address the Committee at the meeting or who wish to file written comments before or after the meeting should contact:

Naomi Churchill, Esq., Associate Director, Equal Opportunity, Office of Advocacy and Enterprise, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Room 1226 South Building, Washington, DC 20250, (202) 447–5681, TTD (202) 447–5681.

or

Michael Campbell, University of California at Davis, Davis, California 95616, (916) 752–6360, TTD (202) 752–6446.

Written statements may be submitted until November 30, 1988.

Naomi Churchill,
Associate Director, Equal Opportunity.

[FR Doc. 88–25170 Filed 10–31–88; 8:45 am]
BILLING CODE 3410–94–M

Federal Grain Inspection Service

Designation Renewal of the Idaho (ID) and Lewiston (ID) Agencies and the State of Utah (UT)

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of the Idaho Grain Inspection Service (Idaho), Lewiston Grain Inspection Service, Inc. (Lewiston), and the Utah Department of Agriculture as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: December 1, 1988.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that Idaho's, Lewiston's, and Utah's designations terminate on November 30, 1988, and requested applications for official agency designation to provide official services within specified geographic areas in the June 1, 1988, **Federal Register** (53 FR 19976). Applications were to be postmarked by July 1, 1988. Idaho, Lewiston, and Utah were the only applicants for designation in those areas and each applied for designation renewal in the entire area currently assigned to that agency.

The Service announced the applicant names in the August 2, 1988, **Federal Register** (53 FR 29074) and requested comments on the applicants' designation. Comments were to be postmarked by September 15, 1988; a total of five comments were received. One favorable comment was received from a trade group, recommending the designation renewal of Idaho; three favorable comments, one from a trade group and two from applicants for service recommended the designation renewal of Lewiston; and one favorable comment was received from an applicant for service, recommending the designation renewal of Utah.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and, in accordance with section 7(f)(1)(B), determined that Idaho, Lewiston, and Utah are able to provide official services in the geographic area for which the Service is renewing their designation. Effective December 1, 1988, and terminating November 30, 1991, Idaho, Lewiston, and Utah will provide official inspection services in their specified geographic area, previously described in the June 1 **Federal Register**.

Interested persons may obtain official services by contacting the agencies at the following telephone numbers: Idaho at (208) 233–8303, Lewiston at (208) 746–0451, and Utah at (801) 392–0603.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: October 26, 1988.

J.T. Abshier,
Director, Compliance Division.

[FR Doc. 88–25137 Filed 10–31–88; 8:45 am]
BILLING CODE 3410–EN–M

Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the Frankfort (IN), Jinks (IL), and Paris (IL) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas currently assigned to the Frankfort Grain Inspection, Inc. (Frankfort), Jinks

Grain Weighing Service (Jinks), and Paris, Illinois Grain Inspection (Paris).

DATE: Comments to be postmarked on or before December 16, 1988.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454.

Telemail users may respond to [LLEBAKKEN/FGIS//USDA] telemail.

Telex users may respond as follows:

To: Lewis Lebakken
TLX:7607351, ANS:FGIS US.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: This action hass been reviewed and determined not to be a rule or regulation as defined in Executive Order 12201 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the September 1, 1988, **Federal Register** (53 FR 33829). Applications were to be postmarked by October 3, 1988. Frankfort was the only applicant for designation in its area and applied for designation renewal in the entire area currently assigned to that agency. Jinks was the only applicant for designation in its area and applied for designation renewal in the following area:

Bounded on the North by the Iroquois County line east to Illinois State Route 1; Illinois State Route 1 south to U.S. Route 24; U.S. Route 24 east into Indiana, to U.S. Route 41;

Bounded on the East by U.S. Route 41 south to the southern Fountain County line; the Fountain County line west to Vermillion County (in Indiana); the eastern Vermillion County line south to U.S. Route 36;

Bounded on the South by U.S. Route 36 west into Illinois, to the Douglas County line; the eastern Douglas and Coles County lines; the southern Coles County line; and

Bounded on the West by the western Coles and Douglas County lines; the western Champaign County line north to Interstate 72; Interstate 72 southwest to the Piatt County line; the western Piatt County line; the southern McLean County line west to a point 10 miles west of the western Champaign County line; a staight line running north to U.S. Route 136; U.S. Route 136 east to Interstate 57; Interstate 57 north to the Champaign County line; the northern Champaign County line; the western Vermilion (in Illinois) and Iroquois County lines.

Jinks did not apply for designation in the following locations, all in Illinois, outside of the above contiguous geographic area: Moultrie Grain Association, Cadwell, Moultrie County; Tabor and Company, Weedman Grain Company, and Pacific Grain Company, all in Farmer City, Dewitt County; Moultrie Grain Association, Lovington, Moultrie County; Monticello Grain Company, Monticello, Piatt County; and Pittwood Grain Company, Pittwood, Iroquois County (located inside Decatur Grain Inspection, Inc.'s area). Since first designated on March 1, 1983, there have been no requests for official weighing services at these locations.

In addition, the September 1, 1988, Federal Register notice listed as exceptions to the geographic area assigned to Jinks the following locations which were said to be serviced by other official agencies:

1. Paris, Illinois Grain Inspection: Tabor Grain Co., Newman, Douglas County, Illinois; Tabor Grain Co., Oakland, Coles County, Illinois; and Cargill, Inc., Dana, Vermillion County, Indiana; and

2. Titus Grain Inspection, Inc.: Boswell Grain Company, Boswell, Benton County, Indiana; Dunn Grain, Dunn, Benton County, Indiana; York Richland Grain Elevator, Inc., Earl Park, Benton County, Indiana; and Raub Grain Company, Raub, Benton County, Indiana.

While these two official agencies have been and will continue to provide official inspection services to these locations, these agencies have not been designated to provide official weighing services at any location. Accordingly, these locations should not have been listed as exceptions to the geographic area available for assignment. Jinks will continue to provide official weighing services, if requested, to these locations until February 28, 1989, and those locations inside the contiguous geographic area are available for assignment to the applicant selected for designation to provide official weighing services in the geographic area presently assigned to Jinks.

There were two applicants for the Paris application: Paris applied for designation renewal in the entire area currently assigned to that agency; and Champaign-Danville Grain Inspection Departments, Inc., a neighboring official agency, applied for designation in the entire area currently assigned to Paris.

This notice provides interested persons the opportunity to present their comments concerning the applicants' designation. Commenters are encouraged to submit reasons for support or objection to these designation actions and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

Pub. L. 94–582, 90 Stat. 2867, as amended. (7 U.S.C. 71 *et seq.*)

Date: October 26, 1988.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 88–25138 Filed 10–31–88; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Detroit (MI), Keokuk (IA), and Michigan (MI) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agencies. The official agencies are the Detroit Grain Inspection Service, Inc. (Detroit), John H. Oliver, Inc., dba Keokuk Grain Inspection Service (Keokuk), and Michigan Grain Inspection Services, Inc. (Michigan).

DATE: Applications to be postmarked on or before December 1, 1988.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be

made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Detroit, located at 12840 Inlay City Road, Yale, MI 48097; Keokuk, located at 22 Prices Creek, Keokuk, IA 52632; and Michigan, located at 189 Lyon Lake Road, Marshall, MI 48068; were each designated under the Act as an official agency on May 1, 1986, to provide official inspection functions.

Each official agency's designation terminates on April 30, 1989. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Detroit, in the State of Michigan, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Clinton County line; the eastern Clinton County line south to State Route 21; State Route 21 east to State Route 52; State Route 52 north to the Shiawassee County line; the northern Shiawassee County line east to the Genesee County line; the western Genesee County line; the northern Genesee County line east to State Route 15; State Route 15 north to Barnes Road; Barnes Road east to Sheridan Road; Sheridan Road north to State Route 46; State Route 46 east to State Route 53; State Route 53 north to the Michigan State line;

Bounded on the East by the Michigan State line south to State Route 50;

Bounded on the South by State Route 50 west to U.S. Route 127; and

Bounded on the West by U.S. Route 127 north to U.S. Route 27; U.S. route 27 north to the northern Clinton County line.

The following location, outside of the above contiguous geographic areas, is part of this geographic area assignment: St. Johns Coop., St. Johns, Clinton County (located inside Michigan Grain Inspection Services, Inc.'s area).

The geographic area presently assigned to Keokuk, in the States of Illinois and Iowa, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

In Illinois: Hancock and McDonough Counties.

In Iowa: Davis, Lee, and Van Buren Counties.

The following locations, all in Illinois, outside of the above contiguous geographic area, are part of this geographic area assignment: Continental Grain Co., Dallas City, and Lomax Grain Elevator, Lomax, both in Henderson County (located inside Eastern Iowa Grain Inspection and Weighing Service, Inc.'s area); and Ursa Farmers Co-op, Meyer, and Ursa Farmers Co-op, Ursa, both in Adams County (located inside Quincy Grain Inspection & Weighing Service's area).

The geographic area presently assigned to Michigan, in the State of Michigan, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern and eastern Mason and Newago County lines; the northern Montcalm County line; the western, northern, and eastern Isabella County lines; the northern Gratiot and Saginaw County lines; the western Bay County line; the western and northern Arenac County lines; the western and northern Iosco County lines;

Bounded on the East by the Lake Huron and Saginaw Bay shorelines south and east to State Route 53; State Route 53 south to State Route 46;

Bounded on the South by State route 46 west to Sheridan Road; Sheridan Road south to Barnes Road; Barnes Road west to State Route 15; State Route 15 south to the Genesee County line; the northern Genesee County line west to the Shiawassee County line; the northern Shiawassee County line west to State Route 52; State Route 52 south to State Route 21; State Route 21 west to Clinton County; the eastern and northern Clinton County lines west to U.S. Route 27; U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the Jackson County line; the southern Jackson, Calhoun, Kalamazoo, and Van Buren County lines; and

Bounded on the West by the Lake Michigan shoreline north to the northern Mason County line.

An exception to Michigan's assigned geographic area is the following location inside Michigan's area which has been and will continue to be serviced by the following official agency:

Detroit Grain Inspection Service, Inc.: St. Johns Coop., St. Johns, Clinton County.

Interested parties, including Detroit, Keokuk, and Michigan, are hereby given opportunity to apply for official agency designation to provide the official services in each geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning May 1, 1989, and ending April 30, 1992. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: October 26, 1988.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 88–25139 Filed 10–31–88; 8:45 am]

BILLING CODE 3410–EN–M

Rural Electrification Administration

Intent to Conduct Public Scoping Meetings Potentially Leading to the Preparation of an Environmental Impact Statement

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of intent to conduct public scoping meetings potentially leading to the preparation of an environmental impact statement.

SUMMARY: The Rural Electrification Administration (REA) intends to conduct three public scoping meetings possibly leading to the preparation of an Environmental Impact Statement (EIS) in connection with possible requests by Old Dominion Electric Cooperative (ODEC) of Glen Allen, Virginia for financing assistance in connection with the construction and operation of a 400 megawatt (MW) coal-fired generating unit. Three alternative sites have been identified. They are: (1) Passapatanzy Site—located east of Fredericksburg

near the Rappahannock River in King George County; (2) Sutherland Site—located west of Petersburg near Lake Chesdin in Dinwiddie County and; (3) Clover Site—located north of South Boston near the Roanoke River in Halifax County. Each site would be large enough to support two 400 MW units.

DATE: REA will conduct the public scoping meetings as follows:

Monday, December 5, 1988, 7:30 p.m.—King George County Citizens Center, Route 3, King George, VA 22485

Tuesday, December 6, 1988, 7:30 p.m.—Halifax County Senior High School Cafeteria, Route 129, South Boston, VA 24592

Wednesday, December 14, 1988, 7:30 p.m.—Dinwiddie High School Auditorium, Route 627, Dinwiddie, VA 23841

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meeting in order for comments to be part of the formal record. Comments should be sent to Mr. James A. Ruspi, Chief, Distribution and Transmission Engineering Branch, Northeast Area—Electric, Rural Electrification Administration, Room 0250, South Agriculture Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Ruspi, Northeast Area—Electric, above address, telephone (202) 382–1432 or FTS 382–1432, or Mr. Edward D. Tatum, Jr., Old Dominion Electric Cooperative, 4201 Dominion Boulevard, Glen Allen, Virginia 23060, telephone (804) 747–0592.

SUPPLEMENTARY INFORMATION: REA, in order to meet requirements under the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Environmental Policy and Procedures (7 CFR Part 1794), intends to conduct public scoping meetings possibly leading to the preparation of an Environmental Impact Statement. This notice is in connection with a potential request for financial assistance from REA by ODEC for the construction and operation of a 400 MW coal-fired generating unit and associated facilities at a site within the State of Virginia.

ODEC is a non-profit electric cooperative serving nearly all the electric requirements of nine electric cooperatives in the State of Virginia with 212 MW of nuclear generating capacity and wholesale power purchased from Virginia Power Company and Allegheny Power System (APS). Those nine systems also purchase small amounts of power from the Southeastern Power Administration and ODEC purchases a small amount of power from the Potomac Edision Company. ODEC is also responsible for providing power to three cooperatives in Maryland, Delaware and the Virginia portion of the Delmarva peninsula via power supply contracts with utilities in those localities. The needs of those three members are not being considered as part of this proposal.

ODEC's Virginia load in 1987 totaled 872 MW and 4,228,742 MWh. The 300 MW power supply contract with the APS will terminate in 1994.

At this time, ODEC must determine how it will replace the APS purchases and provide for member load growth and is investigating the most economical and effective ways of meeting its power supply obligation. As part of its investigation of alternatives, ODEC is evaluating the possibility of constructing a 400 MW coal-fired generating station.

Alternatives to be considered by REA include, among other options: (1) No action; (2) conservation and load management; (3) purchased power from another utility or an independent power producer; (4) joint participation in the generation project of another utility; (5) alternative generation methods; and (6) alternative sites.

The public scoping meetings to be conducted by REA will be held to solicit public input and comments including, but not limited to, the nature of the proposed project, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the EIS.

Requests for additional information concerning the meetings may be directed to either REA or ODEC at the addresses shown above. Copies of the Site Selection Study and Power Supply Alternatives Study are available for public review at the offices of REA, ODEC, Southside Electric Cooperative; P.O. Box 7, Crewe, Virginia 23930, Rappahannock Electric Cooperative, P.O. Box 7388, Fredericksburg, Virginia 22404 and at public libraries in King George, Spotsylvania, Dinwiddie and Halifax Counties.

Any REA approval will be subject to and contingent upon reaching satisfactory conclusions with respect to the environmental effects of the projects, and final action will be taken only after compliance with environmental procedures required by NEPA.

This program is listed in the Catalog of Federal Domestic Assistance under 10.8509—Rural Electrification Loans and Loan Guarantees. For reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V, this program is excluded from the scope of Executive Order 312372 which requires intergovernmental consultation with state and local officials.

Date: October 26, 1988.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc. 88–25172 Filed 10–31–88; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held November 15, 1988, at 9:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals and related test equipment or technology.

Agenda

General Session

1. Introduction of Members and Visitors.
2. Introduction of Invited Guests.
3. Presentation of Papers or Comments by the Public.
4. Discussion on Deregulation of Low Level Peripherals.
5. Discussion on Protocol Converters.
6. Discussion on Peripheral Devices Containing Lasers.
7. Discussion on G-COM/GFW Treatment of Removable Recording Media.
8. Discussion of Flow Charts for Graphic Workstations.

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 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 and can be directed to: Technical Support Staff,

Office of Technology & Policy Analysis, Room 4086, 14th & Constitution Avenue NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, 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: October 27, 1988.

Betty A. Ferrell,

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

[FR Doc. 88–25242 Filed 10–31–88; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A–588–032]

Large Power Transformers From Japan; Amendment to Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of amendment of final results of administrative review of antidumping finding in accordance with decision upon remand.

SUMMARY: As a result of a remand from the United States Court of International Trade, the Department of Commerce is amending its final results of administrative review published June 8, 1983. We will direct the U.S. Customs Service to terminate its suspension of liquidation of close coupled S-Formers manufactured by Fuji Electric Co., Ltd., and to liquidate the transformer components of close coupled S-Formers without assessment of antidumping duties.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 26498) the final results of its administrative review of the antidumping finding on large power transformers from Japan (37 FR 11773, June 14, 1972). The review covered various periods through June 30, 1980. The results of that review were challenged in the United States Court of International Trade ("the Court") by a producer, Fuji Electric Co., Ltd., and an importer, Fuji Electric Corp. of America ("Fuji") in *Fuji Electric Co., Ltd.* v. *United States* (Court No. 83–7–00965).

In its final results of administrative review, the Department had found that the rectifier transformer component of Fuji's rectifier transformers assemblies, known as close coupled S-Formers, were covered by the finding on large power transformers. Fuji asserted that the Treasury Department ("Treasury"), which administered antidumping findings until the enactment of the Trade Agreements Act of 1979, had ruled in 1978 that rectifier transformer components were excluded from the scope of the finding. The Court determined that Treasury had excluded these units from the scope and the Department did not have the authority to change Treasury's decision and remanded the review to the Department to amend the scope of review (Slip Op. 88–87, July 7, 1988, amended August 11, 1988).

Remand Results

In light of the Court's decision and remand, the Department is revising its final results of review to reflect the earlier Treasury determination on this merchandise. Accordingly, we amend the description of those units not within the scope of the finding to read: "Not included are combination rectifier-transformer units, commonly known as rectiformers, if the entire assembly is imported in the same shipment and entered on the same entry, and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly."

In addition, in accordance with the Court's order, we are instructing the U.S. Customs Service to terminate its suspension of liquidation of close coupled S-Formers manufactured by Fuji Electric Co., Ltd., and to liquidate the transformer components of Fuji's close coupled S-Formers without assessment for antidumping duties.

Date: October 25, 1988.

Jan W. Mares,

Assistant Secreary for Import Administration.

[FR Doc. 88–25243 Filed 10–31–88; 8:45 am]

BILLING CODE 3510-DS-M

[A–588–404]

Neoprene Laminate From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 15, 1988, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on fabric expanded neoprene laminate from Japan. The review covers two manufacturers/exporters of this merchandise to the United States and the period July 1, 1986, through June 30, 1987.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from one respondent, Heiwa Rubber Industries. Based on our analysis of comments received and correction of certain clerical errors, we have changed the final results from those presented in the preliminary results of review.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Marquita Steadman or Phyllis Derrick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 1988, the Department of Commerce published in the **Federal Register** (53 FR 22369) the preliminary results of its administrative review of the antidumping duty order on fabric expanded neoprene laminate ("FENL") from Japan. The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("The Tariff Act").

Scope of the Review

Imports covered by the review are shipments of FENL currently classifiable under item numbers 355.81, 355.82, 350.50 and 359.60 of the *Tariff Schedules of the United States Annotated*, and under item numbers 5602.10.00, 5906.91.20, 5906.91.25, 5906.99.20, 5906.99.25 and 5911.10.20 of the *Harmonized Tariff Schedule*.

The review covers two manufacturers/exporters of Japanese FENL, and the period July 1, 1986, through June 30, 1987. Yamamoto provided an untimely and inadequate response to the Department's questionnaire for this review period. The Department consequently used the best information available for assessment and deposit purposes which is the margin from the fair value investigation. The details of the calculation are described in the notice of preliminary results published in the **Federal Register** on June 15, 1988 (53 FR 22369).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from one respondent, Heiwa Rubber Industries.

Comment 1: The Department compared U.S. sales of BFCC JJ2 material for May of 1987 to sales of the same material in the domestic market in June of 1987. Heiwa states that this comparison is inappropriate because the data previously submitted for those sales contained a clerical error. The domestic sales were actually sales of a higher value product. Therefore, this correction leaves no contemporaneous domestic sales of BFCC JJ2 material. Heiwa suggests that the appropriate comparison is to FCC JJ2, adjusting for differences in physical characteristics.

Department's Position: We agree. A review of the sales listing and respective invoices indicates that this was a bona fide coding error. Therefore, we have compared the U.S. sales of BFCC JJ2 to contemporaneous sales of FCC JJ2 in the domestic market, adjusting for differences in physical characteristics.

Comment 2: Heiwa states that the weighted average foreign market value used for comparison for July of 1986 is not representative of the average selling price because it is based on one sales transaction of a limited quantity. It argues that this sale price is aberrational when compared with the weighted average of the previous and following months for the same product, and recommends use of sales of this product in October 1986 as the basis of FMV (although it is not contemporaneous) or sales of similar merchandise in the same month, adjusting for differences in physical characteristics.

Department's Position: We disagree. Our ordinary practice is to compare a U.S. sale to home market sales of identical or similar merchandise in the same month if possible, then to compare the U.S. sale with home market sales up to 90 days prior to the U.S. sale, and finally to compare the U.S. sale with home market sales up to 60 days after the U.S. sale. No evidence was provided that the quantities of the merchandise sold affected prices. Review of the sales data does not show the July 1986 sale to be outside the ordinary course of trade by reason of quantity or selling price. The sale is, therefore, appropriately used as the basis of FMV for this month.

Comment 3: Heiwa states that the weighted average foreign market value used for comparison of CFSC material for May of 1987 is inappropriate because the material chosen by the Commerce Department for comparison, FSC material, was not the most similar available. Although Heiwa's October 1987 submission suggested that these two products were made of the same type of rubber, it was incorrect in this respect. Heiwa suggests that the Department use for comparison another CFSC material of a different thickness, adjusting for the difference in thickness. Heiwa recommends that the Department adjust for the difference in thickness based on weighted average price comparisons.

Department's position: We have changed our comparison of CFSC as suggested by Heiwa. However, the methodology suggested by Heiwa for adjusting for the difference in thickness of the two products is not consistent with the Department's practice. The Department prefers to base its adjustments for differences in physical characteristics on differences in the cost of direct materials, labor and factory overhead (*see* 19 CFR 353.16). Therefore, we have adjusted for the difference in thickness between these products according to the materials cost of this type of rubber reported in Heiwa's October 1987 submission.

Comment 4: The Department compared U.S. sales of FFSC J4 material for May of 1987 to sales of FCC J4 in the domestic market in the same month, and in March of 1987. Heiwa states that both of the reported domestic sales involved a clerical error. Both should have been reported as FCC JJ4, a higher value product. Heiwa suggests that the appropriate comparison is to domestic sales of FFSC in May of 1987, adjusting for differences in physical characteristics.

Department's Position: We agree. A review of the sales listing and respective invoices, indicates this was a bona fide coding error. Therefore, we have compared the U.S. sales of FFSC J4 to contemporaneous sales of FFSC J3 in the domestic market, adjusting for differences in physical characteristics.

Final Results of Review

As a result of our review of the comments received and correction of clerical errors, we determine that the following margins exist:

Manufacturer/Exporter	Margin (percent)
Heiwa Rubber Industries	.85
Yamamoto Corporation	3.09

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48 of the Commerce regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for all shipments by the reviewed firms of Japanese fabric expanded neoprene laminate. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after June 30, 1986, and who is unrelated to any reviewed firm, a cash deposit of .85 percent shall be required. These deposit requirements are effective for all shipments of Japanese fabric expanded neoprene laminate entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce regulations (19 CFR 353.53a).

Date: October 25, 1988.

Jan W. Mares,

Assistant Secretary for Import Administration.

[FR Doc. 88-25244 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by Tsubakimoto Chain Co. and the petitioner, the Department of Commerce has conducted an administrative review of the antidumping finding on roller chain other than bicycle, from Japan. The review covers Tsubakimoto Chain Co., a manufacturer/exporter of this merchandise to the United States and the period April 1, 1986 through March 31, 1987. The review indicates the existence of dumping margins during this period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

We used best information available for certain U.S. sales when Tsubakimoto did not report data on foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE NOTICE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230: telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 8, 1987, the Department published in the Federal Register (52 FR 17425) the final results of its last administrative review of the antidumping findings on roller chain, other than bicycle, from Tsubakimoto Chain Co. (Tsubakimoto), Japan. The petitioner and Tsubakimoto requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on May 20, 1987 (52 FR 18937). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to this Harmonized Tariff System ("HTS"). Until that time, the Department will be providing both the appropriate Tariff Schedules of the United States Annotated ("TSUSA") item numbers and the appropriate HTS item numbers with our product descriptions on a test basis. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact Import Specialists at their local Customs office to consult the schedule.

Imports covered by this review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle" as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain, other than bicycle, is currently classifiable under various provisions of the Tariff Schedules of United States Annotated from item numbers 652.1400 through 652.3800, and under various HTS item numbers, from 7315.11.00 through 7616.90.00.

The review covers Tsubakimoto, a manufacturer/exporter of Japanese roller chain, other than bicycle, to the United States and the period April 1, 1986 through March 31, 1987.

For certain models of roller chain, other than bicycle, sold in the U.S. Tsubakimoto did not provide foreign market data for comparison purposes. Therefore, the Department used the best information available for those sales, which was the weighted-average margin of all exporter's sales price sales which were compared to a foreign market value.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act, as appropriate. Purchase price and exporter's sales price were based on packed, duty-paid, delivered prices to unrelated purchasers in the United States. Where applicable, we made adjustments for U.S. and foreign inland freight, ocean freight, insurance, import duties, brokerage and handling charges, credit, commissions to unrelated parties, and indirect selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison, or constructed value, both as defined in section 773 of the Tariff Act.

Home market price was based on packed, delivered prices to unrelated purchasers in Japan. Constructed value was calculated as the sum of materials, fabrication costs, general expenses, profit, and U.S. packing. The amount added for general expenses was actual general expenses because actual expenses were higher than the statutory minimum of 10 percent of the sum of materials and fabrication costs. Because actual profit was less than 8 percent of the sum of materials, fabrication, and general expenses, the Department added the statutory minimum of 8 percent for profit. We made adjustments, where applicable, for discounts, sales reward, inland freight, differences in packing and credit costs, and indirect selling expenses to offset U.S. selling expenses for ESP calculations and when commissions wre paid in one market and not the other. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market

value we preliminarily determine that a weighted-average margin of 0.57 percent exists during the period April 1, 1986 through March 31, 1987.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on Tsubakimoto directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required for this firm. For any shipments of this merchandise manufactured and/or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for those firms. For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1987 and who is unrelated to Tsubakimoto or any other previously reviewed firm, a cash deposit of 0.57 percent shall be required. These deposit requirements are effective for all shipments of Japanese roller chain, other than bicycle, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: October 25, 1988.

Jan W. Mares,

Assistant Secretary for Import Administration.

[FR Doc. 88-25245 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-045]

Steel Wire Rope From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner, importers, and manufacturers, the Department of Commerce has conducted an administrative review of the antidumping finding on steel wire rope from Japan. The review covers 30 manufacturers and/or exporters of this merchandise to the United States, and various periods from March 1, 1975 through September 30, 1984. The review indicates the existence of dumping margins during these periods.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 28585) the final results of its last administrative review of the antidumping finding on steel wire rope from Japan (38 FR 28571, October 15, 1973). The petitioner, importers, and manufacturers requested in accordance with § 353.53a(a) of the Commerce Regulations, that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on September 21, 1987 (52 FR 35466). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to this Harmonized Tariff System ("HTS"). Until that time, the Department will be providing both the appropriate Tariff Schedules of the United States Annotated ("TSUSA") item numbers and the appropriate HTS item numbers with our product descriptions on a test basis. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HTS item numbers as well as the TSUSA item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by this review are shipments of steel wire rope, except brass electroplated steel truck tire cord of cable construction specially packaged for protection against moisture and atmosphere. Such steel wire rope is currently classifiable under TSUSA item numbers 642.1200, 642.1400, 642.1500, 642.1600, and 642.1700, and HS item numbers 7312.1060, 7312.1080, 7312.1090 and 7312.1050.

The review covers 30 manufacturers and/or exporters of Japanese steel wire rope and various periods for which reviews were requested, from March 1, 1975 through September 30, 1984. Shipments made by J. Gerber & Co. (Japan) Ltd. and Mitsui are being covered in a separate administrative review.

Ataka, Chrysanthemum, Kent-Moore, Far East, Vanguard, Kanematsu-Gosho, C. Itoh, Higashishiba, Kohshin (Koshin), Kokoku, Okura, Shinyo, Taisei Int'l, Teikoku, and Yutoku did not respond or provided an inadequate response to the Department's antidumping questionnaire for *certain periods.* (Ataka and Taisei Int'l are reported to be out of business.) For these periods and firms, the Department used the best information

available for assessment and cash deposit purposes.

Best information available for time periods through December 31, 1979, was the bonding rate at time of entry. Beginning January 1, 1980, we used the highest rate for any firm previously reviewed because those rates were higher than any rates found during this review. For non-shipping firms we used their most recent rate.

United States Price

In calculating United States price the Department used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the packed, f.o.b. or c.i.f. price to unrelated purchasers in the United States, as appropriate. We made adjustments, where applicable, for ocean freight, insurance, and U.S. and foreign inland freight. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, or third country price as defined in section 773 of the Tariff Act. Third-country price was based on Union Wire Rope's packed f.o.b. price to unrelated purchasers for export to Australia. For Shinyo Ropes we used the price to unrelated purchasers in the home market. We made adjustments, where applicable, for foreign inland freight and differences in packing. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Margin (percent)	
Chrysanthemum (a.k.a. Kiku)/Ataka:		
10/01/82-09/30/84	11.88	2
Chrysanthemum/C. Itoh:		
10/01/82-09/30/83	-0-	1
10/01/83-09/30/84	11.88	2
Chrysanthemum/Kent-Moore Japan:		
10/01/82-09/30/83	7.29	2
10/01/83-09/30/84	7.29	1
Chrysanthemum/Watanabe Trading:		
10/01/83-09/30/84	1.08	1
Daiyu Kogyo (a.k.a. Dia Steel Wire and Dia Kogyo):		
02/01/82-02/28/83	7.29	1
Hannan Rope:		
02/01/82-09/30/84	7.29	1
Hannan Rope/Far East:		
10/01/82-09/30/83	7.29	2
10/01/83-09/30/84	7.29	1
Hannan Rope/Higashishiba:		
03/01/75-03/31/78	18.32	2
10/01/82-09/30/84	7.29	2
Higashishiba:		
02/01/82-09/30/84	11.88	2
Kawatetsu Wire/Taisei Int'l:		
08/01/75-03/31/78	29.80	2
10/01/80-09/30/83	29.80	2
Kokoku/Kanematsu-Gosho:		
10/01/83-03/31/84	7.29	1
Kokoku/Kohshin (Koshin):		
10/01/82-03/31/84	7.29	2
Kokoku/Nissho-Iwai:		
10/01/82-03/31/84	7.29	2
Kokoku/Shinsho (a.k.a. Shinkyo Shoji, Shinko Shoji and Shinko Wire Corp.):		
10/01/82-03/31/84	7.29	1
Shinko Wire Rope/Kanematsu-Gosho:		
10/01/83-09/30/84	-0-	1
Shinko Wire Rope/Nissho-Iwai:		
10/01/82-09/30/84	-0-	1
Shinyo Ropes/Higashishiba:		
03/01/83-09/30/84	7.29	2
Shinyo Ropes/Vanguard:		
10/01/83-03/31/84	7.29	1
Shinyo Ropes/Yutoku (a.k.a. S.M. Industries):		
10/01/82-09/30/83	4.62	2
10/01/83-09/30/84	-0-	.....
Teikoku/C. Itoh:		
04/01/78-01/31/82	11.88	2
Teikoku/Kanematsu-Gosho:		
12/01/76-01/31/82	20.57	2
Teikoku/Okura Trading:		
12/01/76-09/30/81	20.57	2
10/01/81-09/31/82	20.57	1
Teikoku/Sakai:		
12/01/76-03/31/78	20.57	1
10/01/80-01/31/82	20.57	1
Teikoku/Shinko Shoji:		
04/02/78-01/31/82	20.57	1
Teikoku/Showa Boeki:		
10/01/80-01/31/82	-0-	1
Teikoku/Taisei Int'l:		
12/01/76-03/31/78	20.57	2
04/01/79-01/31/82	20.57	2
Tokyo Rope/Alaska Boeki:		
01/01/77-09/30/81	17.18	1
Tokyo Rope/Ataka:		
04/01/78-09/30/84	17.18	2
Tokyo Rope/Mitsubishi Corp.:		
04/01/78-02/28/83	-0-	1
Union Wire Rope/Sanyo Bussan (a.k.a.Sanyu):		
10/01/82-09/30/84	-0-	.....

1. No shipments during the period, margins are their most recent rate.
2. Used best information available.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins for the most recent period for each firm shall be required. For any shipments from the remaining known manufacturers and exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable for each of those firms (47 FR 3395, January 25, 1982; 48 FR 8524, March 1, 1983; 49 FR 12295, March 29, 1984; and, 52 FR 28585, July 31, 1987). For any future entries of this merchandise manufactured or exported by a new manufacturer and/or exporter, whose first shipments occurred after July 31, 1987, and who is unrelated to any reviewed firm, a cash deposit of zero percent shall be required. These deposit requirements are effective for all shipments of Japanese steel wire rope entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and 19 CFR 353.53(a)).

Date: October 25, 1988.

Jan W. Mares,

Assistant Secretary for Import Administration.

[FR Doc. 88-25246 Filed 10-31-88; 8:45 am]
BILLING CODE 3510-DS-M

[A-588-045]

Steel Wire Rope From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on steel wire rope from Japan. The review covers one exporter of this merchandise to the U.S., Mitsui, and the period January 1, 1974

through September 30, 1985. The review indicates the existence of dumping margins for some of the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Where information received in response to our antidumping questionnaires and supplemental letters was inadequate, we used the best information available for assessment purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4195/3601.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1973, the Treasury Department published in the **Federal Register** (38 FR 28571) the antidumping finding on steel wire rope from Japan. The Department of Commerce ("the Department") published a notice of initiation of this antidumping duty administrative review on June 17, 1987 (52 FR 23063). The Department has now conducted that administrative review in accordance with Section 751 of the Tariff Act of 1930 ("the Tariff Act").

The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of steel wire rope, except brass electroplated steel truck tire cord of cable construction specifically packaged for protection against moisture and atmosphere. Such steel wire rope is currently classifiable under Tariff Schedules of the United States Annotated items 642.1200, 642.1400, 642.1500, 642.1600, and 642.1700 and Harmonized System item numbers 73.12.1060, 73.12.1080, 73.12.1090, and 73.12.0050. The review covers one exporter of this merchandise to the U.S., Mitsui, and the period January 1, 1974 through September 30, 1985. Mitsui failed to respond to our request for additional information for the period January 1, 1974 through April 30, 1978. Therefore, for this period the Department used the best information otherwise available, which is the highest rate from the fair value investigation. There were no known shipments by Mitsui of this merchandise to the U.S. during the period October 1, 1982 through September 30, 1985, and there are no known unliquidated entries for this period. For sales between May 1, 1978 and September 30, 1982. United States price and foreign market value were calculated using the methodologies described below.

United States Price

In calculating United States price the Department used purchase price, because all sales were made to unrelated parties prior to importation, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, as appropriate. Purchase price was based on the f.o.b., or delivered, packed, price to unrelated purchasers in the United States. Where appropriate, we made adjustments for handling, foreign inland freight, marine insurance, and ocean freight. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Act or section 204 of the 1921 Act, since there were sufficient sales of such or similar merchandise in the home market. Home market price was based upon the delivered price to unrelated purchasers in the home market. We made adjustments for inland freight and differences in credit and packing expenses. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Exporter	Time period	Margin (percent)
Mitsui	1/1/74–4/30/78	9.68
	5/1/78–9/30/82	0
	10/1/82–9/30/85	[1] 0

[1] No shipments during the period; margin from last period in which there were shipments.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication, or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Further, as provided for by section 751(a)(1) of the Tariff Act, the Department shall not require a cash deposit of estimated antidumping duties for Mitsui. These cash deposit requirements are effective for all shipments by Mitsui of Japanese steel wire rope, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

Jan W. Mares,

Assistant Secretary for Import Administration.

Date: October 24, 1988.

[FR Doc. 88–25247 Filed 10–31–88; 8:45 am]

BILLING CODE 3510–DS–M

[C–357–002]

Wool From Argentina; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On July 11, 1988, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on wool from Argentina. We have now completed that review and determine the total bounty or grant to be 6.23 percent *ad valorem* during the period Janaury 1, 1986 through December 31, 1986.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Sylvia Chadwick or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department

of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: .

Background

On July 11, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 26101) the preliminary results of its administrative review of the countervailing duty order on wool from Argentina (48 FR 14423, April 4, 1983). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Argentine wool. Such merchandise is currently classifiable under items 306.3152, 306.3172, 306.3253, 306.3273, 306.3354, and 306.3374 of the Tariff Schedules of the United States Annotated and under item numbers 510.111.50, 510.121.35 and 510.121.40 of the Harmonized Tariff Schedule.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

As a result of our review, we determine the total bounty or grant to be 6.23 percent *ad valorem* for the period January 1, 1986 to December 31, 1986.

The Department will instruct the Customs Service to assess countervailing duties of 6.23 percent of the f.o.b. invoice price on all shipments exported on or after January 1, 1986, and on or before December 31, 1986.

The Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 6.23 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Date: October 24, 1988.

Timothy N. Bergan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 88-25248 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: Department of Commerce.

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an export trade certificate of review. This notice summarizes the amendment and requests comments relevant to whether the certificate should be amended.

FOR FURTHER INFORMATION CONTACT: Thomas H. Stillman, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. A certificate of review protects the holder and the members identified in the certificate from private treble damage actions and from civil and criminal liability under Federal and State antitrust laws for the export conduct specified in the certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-2A004."

OETCA has received the following application for a second amendment to Export Trade Certificate of Review #87-00004, which was issued on May 19, 1987 (52 FR 19371, May 22, 1987) and first amended on December 11, 1987 (52 FR 48454, December 22, 1987).

Applicant: National Machine Tool Builders' Association ("NMTBA"), 7901 Westpark Drive, McLean, Virginia 22102-4269. Contact: James R. Atwood, legal counsel; Telephone: 202/662-6000.

Application #: 87-2A004.

Date Deemed Submitted: October 17, 1988.

Summary of the Application

NMTBA seeks to amend its certificate to:

1. Add each of the following companies as a new "Member" of the certificate: Compumachine Inc.; Elox Corporation; Fayscott Company; Innovex; J.M. Montgomery Mfg. Inc.; PH Hydraulics & Automation, Inc.; The Pratt & Whitney Comnpany, Incorporated; Productivity Systems, Inc.; Strippit, Inc.; Trumpf Industrial Lasers, Inc.

2. Reinstate both of the following companies as a "Member" of the certificate and change their company names to the new listing cited in this paragraph in parentheses as follows: Acme-Cleveland Corporation (National Acme Co.); MG Cutting Systems (MG Systems Div.).

3. Delete each of the following companies as a "Member" of the certificate: Acro Automation Systems, Inc.; Automation Associates, Inc.; Colt Industries, Inc.; Continental M.D.M., Inc.; Engis Corporation; GM Industries, Inc.; GT Acoustical Technologies; Grinders for Industry; Houdaille Industries, Inc.; Industrial Development Systems, Inc.; The OK Tool Company, Inc.; Reno Machinery and Engineering Co.; Universay Engineering Div., Stanwich Industries, Inc.; Wotan Machine Tool, Inc.; Zero Manufacturing Co.

4. Change the listing of the company name for each current "Member" cited in this paragraph to the new listing cited in this paragraph in parentheses as follows: APEC/CPM Guill Technologies Inc. (A.P.E.C.); Centro-Morgardshammer Inc. (Centro-Metalcut, Inc.); Danley Machine Division (Danley Machine Division/Connell Ltd. Partnership); Equipment Systems (ES/TECH-Equipment Systems Technology Co.); Sciaky Bros. Inc. (Ferranti Sciaky, Inc.); Gehring LP (Gehring Corporation); Bohle Machine Tools Inc. (George Fisher-Bohle Machine Tool Corp.); Geometric Tool-Division Greenfield Industries (Greenfield Industries); USI Clearing (HZ Clearing Inc.); Hansvedt (Hansvedt Industries, Inc.); Kayex-Spitfire Tool & Machine Co. (Kayex-Spitfire); Lodge & Shipley/Manuflex (Manuflex Corporation); Pneumo Precision Inc. (Rank Pneumo Inc.); Surf/Tran (Surf/Tran Division, Robert Bosch Corporation); Ex-Cell-O Corporation (Textron Inc./North American Machine Tool Division); Eitel Presses Inc.

(Transmares Corp.); White Consolidated Industries (WCI Machine Tool & Systems Co.).

5. Identify the certificate holder as "National Machine Tool Builders' Association (a.k.a. NMTBA—The Association for Manufacturing Technology)."

Date: October 27, 1988.

Thomas H. Stillman,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88-25200 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-DR-M

Short-Supply Review on Certain Flat-Rolled Carbon Spring Steel; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangment on Certain Steel Products, with respect to certain flat-rolled carbon spring steel.

DATE: Comments must be submitted on or before November 11, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such products.* * *"

We have received a short-supply request for certain flat-rolled carbon spring steel, general specification AISI 1080, hardened, tempered, grinded, polished, in coils, in thicknesses ranging from 0.038 to 0.090 inch and widths ranging from 0.120 to 0.390 inch.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than November 11, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments on this request in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

Jan W. Mares,

Assistant Secretary for Import Administration.

October 26, 1988.

[FR Doc. 88-25250 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Steel Tubing; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, with respect to certain steel tubing.

EFFECTIVE DATE: Comments must be submitted on or before November 11, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerica, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category * * *"

We have received a short-supply request for steel tubing meeting ASME specifications SA 178 Grade C, SA 209 Grade T-1, SA 210 Grade A-1, SA 210 Grade C, SA 213 Grade T-2, SA 213 Grade T-11, and SA 213 Grade T-22. This tubing ranges from 1.75 to 5.563 inches in diameter and 0.165 to 0.560 inch in wall thickness.

Any party interested in commenting on this request should send written comments as soon as possible, but no later than November 11, 1988. Comments should focus on the economic factors involved in granting or denying the request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099, at the above address.

Jan Mares,

Assistant Secretary for Import Administration.

October 26, 1988.

[FR Doc. 88-25249 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Austin, Texas

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $165,000 for the project performance of April 1, 1989 to March 31, 1990. The MBDC will operate in the Austin, Texas, Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of $165,000 in Federal Funds and a minimum of $29,118 in non-Federal

funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDC supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals for firms: offer them a full range of management and technical assistance; and service as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical asistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDC based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for receipt of applications is November 30, 1988. Applications must be postmarked on or before November 30, 1988.

ADDRESS: Dallas Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1100 Commerce, Room 7B23, Dallas, Texas 75242–0790, (214) 767–8001.

FOR FURTHER INFORMATION CONTACT: Deselene Crenshaw, Business Development Clerk, Dallas Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

A pre-bid conference will be held in Dallas on November 14, 1988 at 1:00 P.M. Conference site information may be obtained by contacting the individual designated above.

Additional RFAs will be available at the conference site.

Melda Cabrera,

Regional Director Dallas Regional Office.

Date: October 26, 1988.

PROJECT SPECIFICATIONS

PROJECT IDENTIFICATION

1. Program Number and Title: 11.800 Minority Business Development.
2. Project Name: Austin, Texas MBDC. (Geographic Area or SMSA)

BUDGET PERIOD DURATION

1. Budget Period (Check One): First X Second —— Third ——
2. Start Date: April 1, 1989.
3. End Date: March 31, 1989.

PROJECT COST

1. Required Federal Funding Level: $165,000,00.
2. Minimum Non-Federal Contribution: $29,118,00.
3. Total Project Cost: $194,118,00.

PROJECT MINIMUM PERFORMANCE GOAL LEVELS

1. Combined Financial Package and Procurement Minimum Goal Level: $10,670,000.00.
2. Billable SM&TA Minimum Goal Level: $100,000.00.
3. Number of Clients Minimum Goal Level: $80.

OTHER PROJECT SPECIFICATIONS

1. Closing Date for Submission of this Application: November 31, 1988.
2. *Geographic Specification:* The Minority Business Development Center shall offer assistance in the geographic area of: Austin, Texas.
3. *Eligibility Criteria:* There are no eligibility restrictions for this project. Eligible applications may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.
4. *Budget Period:* The competitive award period will be approximately three (3) years consisting of three (3) separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three (3) budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDC based upon the availability of funds, the MBDC's performance and Agency priorities.

[FR Doc. 88–25313 Filed 10–31–88; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Limit for Certain Cotton, Wool and Man-Made Fiber Sweaters Assembled in Guam From Imported Parts

October 27, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for the new agreement year.

EFFECTIVE DATE: November 1, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: The provision for sweaters assembled in Guam from imported parts and exported from Guam to the United States is being continued for the period November 1, 1988 through October 31, 1989. The limit established for the previous period is being increased to 178,232 dozen.

A certification will continue to be required and will be issued by the authorities in Guam prior to exportation as verification of assembly in Guam. A facsimile of the certification stamp was published in the Federal Register on March 4, 1985 (50 FR 8649).

For those sweaters properly certified, no export visa or license will be required from the country of origin of the merchandise, and imports entered under this procedure will not be charged to limits established for exports from the country of origin. Exports of sweaters in Categories 345, 445, 446, 645 and 646, which are not accompanied by a certification and those in excess of 178,232 dozen, will require the appropriate visa or export license from the country of origin and will be subject to any other applicable restriction.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 52 FR 39677, published on October 23, 1987.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

October 27, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, effective on November 1, 1988, you are directed to permit entry or withdrawal from warehouse for consumption in the United States of 178,232 dozen cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646, the product of any foreign country of foreign territory, as determined under Customs Regulation Part 12, Section 12.130 and which have been certified as assembled in Guam and exported to the United States during the twelve-month period beginning on November 1, 1988 and extending through October 31, 1989. You are directed not to require any otherwise applicable import restriction sweaters subject to this provision. A certification will be issued by the authorities in Guam prior to exportation as verification to assembly in Guam. A facsimile of the certification stamp has been provided.

Imports of cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646 assembled in Guam, but not of Guam origin, which are not accompanied by a certification and those in excess of 178,232 dozen exported during the twelve-month period beginning on November 1, 1988 and extending through October 31, 1989 will require the appropriate visa or export license from the country of origin and will be charged to any applicable quota.

Imports charged to the category limit for the period November 1, 1987 through October 31, 1988 shall be charged against the level of restraint to the extent of any unfilled balances. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-25198 Filed 10-31-88; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Request for Extension of Approval of Information Collection Requirements; Labels and Instructions for Certain Coal and Wood Burning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted a request to the Office of Management and Budget for an extension through April 20, 1991, of its approval of collection of information requirements in 16 CFR Part 1406. That rule requires the manufacturers (including importers) of certain wood and coal burning appliances to provide safety labels on, and directions with, the products and to send copies of the labels and directions to the Commission. The manufacturers are also required to send the Commission an explanation of how the appropriate clearance distances stated on the labels and directions were determined. Since the requirement to submit information on clearances and copies of current materials to the Commission is already in effect, the future burden of this requirement applies only to manufacturers introducing new models or making changes to required information in previously submitted materials.

The purposes of these reporting requirements are to reduce the risks associated with the installation, operation, and maintenance of these appliances and to help determine the extent to which manufacturers are complying with 16 CFR Part 1406.

Information About the Requested Extension of Approval of Requirements for Collection of Information

Agency Address: Consumer Product Safety Commission, Washington, DC 20207.

Title of Information Collection: Coal and Wood Burning Appliances—Notification of Performance and Technical Data; 16 CFR Part 1406.

Type of Request: Extension of approval.

Frequency of Collection: One time, plus updates when new models are introduced or previously submitted materials are changed.

General Description of Respondents: Manufacturers and importers of coal and wood burning fireplace stoves, heaters, and similar appliances.

Estimated Number of Respondents: 20.

Number of Responses per Respondent: 1.

Estimated Average Number of Hours per Response: 3.

Estimated Number of Hours for all Respondents: 60 per year.

Comments: Comments on this requested extension of approval of information collection requirements should be addressed to Pamela Barr, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395-7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492-6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: October 25, 1988.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 88-25186 Filed 10-31-88; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 21, 1988.

The USAF Scientific Advisory Board HQ Air Force Test and Evaluation Center Advisory Group will meet on November 30–December 1, 1988, from 8:00 a.m. to 5:00 p.m., at Kirtland, AFB, NM.

The purpose of this meeting is to review the status of current and proposed HQ AFOTEC managed Initial Operational Test and Evaluation test programs. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–25146 Filed 10–31–88; 8:45 am]

BILLING CODE 3910–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 21, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Hypersonic Test Facilities will meet on 21 November 1988, from 8:00 a.m. to 5:00 p.m., at the Pentagon, Washington DC, Room 5D982.

The purpose of this meeting is to review the status of the study's final report. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Liaison Officer.

[FR Doc. 88–25156 Filed 10–31–88; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF89–13–000 et al.]

Chevron U.S.A. Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 26, 1988.

Take notice that the following filings have been made with the Commission:

1. Chevron U.S.A. Inc.

[Docket No. QF89–13–000]

On October 18, 1988, Chevron U.S.A. Inc. (Applicant), of P.O. Box 1392, Bakersfield, California 93302 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Fresno County, California. The facility will consist of two gas turbine generators and two heat recovery steam generators. The electric power production capacity of the facility will be 4800 kW. The primary source of energy is natural gas. The thermal energy recovered from the facility will be used for tertiary petroleum production. Construction is scheduled to begin the last quarter of 1988.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. Warrenburg Hydro Power Limited Partnership

[Docket No. QF89–12–000]

On October 17, 1988, Warrensburg Hydro Power Limited Partnership (Applicant), submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 2,835 KW hydroelectric facility (FERC P. 9074) will be located on the Schroon River in Warren County, New York.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Greenleaf Unit Two Associates, Inc. (Yuba City Facility)

[Docket No. QF89–8–000]

On October 14, 1988, Greenleaf Unit Two Associates, Inc. (Applicant), c/o LFC Energy Corp., 3 Randor Corporate Center, 100 Matsonford Road, Radnor, Pennsylvania 19087–4574 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located in Yuba City, California near the intersection of California State Highway 99 and Route 20. The facility will consist of a combustion turbine generator and a supplementary fired heat recovery steam generator (HRSG). High pressure steam from HRSG will be reinjected into the combustion turbine for emission control and power augmentation, low pressure steam will be used for processing of agriculture products at The Sunsweet Growers, Inc. The maximum net electric power production capacity of the facility will be 49.5 MW. The primary source of energy will be natural gas. The installation of the facility was scheduled to begin on October 1, 1988.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois I. Cashell,

Secretary.

[FR Doc. 88–25159 Filed 10–31–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. QF89–7–000 et al.]

Colorado Power Partners et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take Notice that the following filings have been made with the Commission:

1. Colorado Power Partners

[Docket No. QF89–7–000]

October 26, 1988.

On October 12, 1988, Colorado Power Partners (Applicant), of 303 East Seventeenth Avenue, Suite 1070, Denver, Colorado 80203, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Brush,

Colorado. The facility will be constructed in two phases. Each phase of the project will consist of two combustion turbine generators and one extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be used for the year-round heating of a 42-acre greenhouse complex. The total net electric power production capacity of the facility will be 118 MW. The primary energy source will be natural gas. Installation of phase one of the facility will begin in April 1989.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. Maine Yankee Atomic Power Company

[Docket No. ER88-202-003]

Take notice that on October 20, 1988, Maine Yankee Atomic Power Company (Maine Yankee) tendered for filing a compliance filing pursuant to Commission's letter order issued September 20, 1988 in the above-captioned docket. The compliance filing contains a tariff sheet which amends Maine Yankee's current Tariff by incorporating a Unit License Life clause. As explained in its transmittal letter, Maine Yankee's filing does not include a tariff sheet incorporating an Equity Return Reopener Clause. Nor does Maine Yankee include in its filing a Compliance Refund Report.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. New York State Electric & Gas Corporation

[Docket No. ER88-508-001 and ER88-520-001]

Take notice that on October 21, 1988, New York State Electric & Gas Corporation (NYSEG) tendered for filing information requested by the Commission, after finding the agreement between NYSEG and GPU Service Corporation (GPU) for the interchange of excess energy (Docket No. ER88-508-000) and the amendment to NYSEG's agreements with Connecticut Light and Power Company, Central Hudson Gas & Electric Corporation, and the New York Power Authority for the sale of short-term energy (Docket No. ER88-520-000) were deficient with respect to the Commission's Regulations.

NYSEG requests that the 60-day filing requirement be waived and that June 1, 1988 be allowed as the effective date of the filing in Docket No. ER88-508-000 and that January 1, 1988 be allowed as the effective date for the filing in Docket No. ER88-520-000.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Empire District Electric Company

[Docket No. ER88-513-001]

Take notice that on October 14, 1988, Empire District Electric Company (EDE) tendered for filing its compliance report in compliance with the Commission's Order of September 1, 1988.

Copies of this filing are being sent to all parties of record.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER88-631-000]

Take notice that on September 30, 1988, New England Power Company (NEP) tendered for filing a proposed change in its Service Agreement for Primary Service for Resale with the Narragansett Electric Company (Narragansett). The proposed change would decrease the fixed credits allowed Narragansett on its purchased power billing by NEP in the amount of $739,100 annually based on the 12-month period ending December 31, 1989.

NEP requests an effective date of December 1, 1988. However, NEP requests that the amendment be suspended for no longer than one month to become effective January 1, 1989, in order to coincide with the effective date of its W-10 wholesale rate filing also filed on September 30, 1988.

Copies of the filing were served upon Narragansett and the Rhode Island Public Utilities Commission.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Pennsylvania Power & Light Company

[Docket No. ER89-16-000]

Take notice that on October 19, 1988, Pennsylvania Power & Light Power (PP&L) tendered for filing changes to the Power Supply Agreement, dated as of the 25th day of May, 1983, between PP&L and the Borough of Kutztown, as supplemented, presented on file with the Commission as Rate Schedule FERC No. 79. The Supplement to the Power Supply Agreement redefines PP&L's supply obligations to the Borough of Kutztown. Currently, the Borough of Kutztown receives its entire supply of electric energy for its municipal electric system from PP&L. On October 1, 1988, the Borough of Kutztown began to receive a portion of its electric energy requirements from the New York Power Authority (NYPA). The Supplement to the Power Supply Agreement establishes rates for the delivery of NYPA hydroelectric energy to the Borough of Kutztown.

Copies of PP&L's filing have been served upon the Borough of Kutztown and the Pennsylvania Public Utility Commission.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of the document.

7. Cincinnati Gas & Electric Company

[Docket No. ER89-17-000]

Take notice that on October 20, 1988, Cincinnati) Gas & Electric Company (Cincinnati) tendered for filing a First Supplemental Agreement dated as of October 1, 1988, to the Interconnection Agreement, dated August 4, 1981, between Cincinnati and the City of Hamilton, Ohio (Hamilton).

The new First Supplemental Agreement is for the transmission of electric power and energy to be obtained by Hamilton from the Power Authority of the State of New York. The First Supplemental Agreement is to become effective October 1, 1988.

Cincinnati states that the reason for the First Supplemental Agreement is to provide Hamilton with up to 8,000 kW of supplemental transmission service to enable Hamilton to obtain power and energy from the Power Authority of the State of New York.

A copy of the filing was served upon the City of Hamilton and the Public Utilities Commission of Ohio.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Carolina Power & Light Company

[Docket No. ER89-19-000]

Take notice that on October 21, 1988, Carolina Power & Light Company tendered for filing a Supplement to the Service Agreement with South River Electric Membership Corporation to reflect the installation of 115kV metering at the Grays Creek Point of Delivery. The Supplement is requested to become effective 60 days after filing.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Gulf States Utilities Company

[Docket No. ER86-558-021]

Take notice that on October 21, 1988, Gulf States Utilities Company tendered for filing an additional refund to a compliance report with refund made to the Brazos Electric Power Cooperative, Inc. dated May 24, 1988. This additional refund reflects principal and interest on

the refund portion of the February 1988 bill for the Cincinnati metering point.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: November 14, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Prededure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-25265 Filed 10-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-24-000 et al.]

Panhandle Eastern Pipe Line Co. et al.; Natural Gas Certificate Filings

October 27, 1988.

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Company

[Docket No. CP89-24-000]

Take notice that on October 7, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-24-000 a request, pursuant to §§ 157.205 and 284.223 of the Commission's Regulations, for authorization to provide transportation on an interruptible basis for Quantum Chemical Corporation (Quantum), an end user, under the blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Panhandle proposes to transport up to 20,000 Dt of natural gas for Quantum from various existing receipt points in Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois and deliver such gas to Quantum in Douglas County, Illinois.

Panhandle indicated that the estimate daily quantities of gas to be transported is 15,000 Dt, peak day quantities is estimated to be 20,000 Dt, and 5,475,000 Dt is estimated for annual quantities.

Further, Panhandle states that transportation service for Quantum commenced on August 4, 1988, as reported in Docket No. ST88-5641, pursuant to the self-implementing provision of § 284.223 of the Regulations.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP89-57-000]

Take notice that on October 13, 1988, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-57-000, a request, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Conoco Inc. (Conoco), a producer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that pursuant to a Transportation Agreement dated July 14, 1988, as amended, under Rate Schedule TI-1, it proposes to transport up to 75,000 MMBtu of natural gas per day for Conoco from points of receipt located in Daggett and Uintah Counties, Utah, Rio Blanco and Delores Counties, Colorado and Sweetwater County, Wyoming to delivery points on Northerwest's system located in Idaho, Oregon and Washington.

Northwest further states that the maximum day, average day, and annual transportation volumes would be approximately 75,000 MMBtu, 300 MMBtu and 110,000 MMBtu, respectively.

Northwest advises that service under § 284.223(a) commenced September 1, 1988, as reported in Docket No. ST89-33-000.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP89-46-000]

Take notice that on October 12, 1988, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-46-000 a request pursuant to §§ 157.205 and 157.212 (18 CFR 157.205 and 157.212) of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate two new taps on the North Seattle lateral pipeline in Snohomish County, Washington, for the sale of gas to Washington Natural Gas Company (Washington Gas), under Northwest's blanket certificate authorization which was issued by Commission order on September 1, 1982, in Docket No. CP82-433, 20 FERC ¶62,412(1982), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By letter agreement with Washington Gas dated August 11, 1988, Northwest agreed to construct two new sales taps on its North Seattle lateral pipeline in Snohomish County, Washington. Washington Gas informed Northwest that the sales taps were required to provide increased natural gas service to the City of Seattle, Washington. However, it is stated that the total quantity of gas to be transported for Washington Gas will not exceed currently authorized maximum levels. Northwest states the proposed interruptible deliveries will have no significant impact on its peak day and annual deliveries.

Gas delivered to these proposed sales taps will be sold under Northwest's ODL-1 Rate Schedule.

It is stated Washington Gas has agreed to reimburse Northwest for all direct construction costs, estimated to be $17,920 plus $3,715 to compensate for any income tax impact. Northwest will pay all labor and expense costs of $2,250.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Northwest Pipeline Corporation

[Docket No. CP89-53-000]

Take notice that on October 13, 1988, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-53-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Loutex Energy, Inc. (Loutex), a marketer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 pursuant to section 7 of the Natual Gas Act, all as more fully set forth in the request which is on file with the

Commission and open to public inspection.

Northwest states that pursuant to a Transporation Agreement dated February 10, 1988, as amended June 29, 1988, under Rate Schedule TI–1, it proposes to transport up to 100,000 MMBtu of natural gas per day for Loutex from the Stanfield and Starr Road interconnects with Pacific Gas Transmission Company located in Umatilla and Spokane Counties, Washington, respectively, and the Sumas interconnect with Westcoast Energy Company in Whatcom County, Washington, to various interconnects with other pipeline companies located in Daggett and Uintah Counties, Utah, Sweetwater County, Wyoming, La Plata County, Colorado, Umatilla and Whatcom Counties, Washington.

Northwest states that no construction of facilities would be required to provide the transportation service.

Northwest further states that the maximum day, average day, and annual transportation volumes would be approximately 100,000 MMBtu, 2,750 MMBtu and 1,000,000 MMBtu, respectively.

Northwest advises that service under § 284.223(a) commenced September 3, 1988, as reported in Docket No. ST89–32–000.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP89–55–000]

Take notice that on October 13, 1988, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–55–000, a request, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Amoco Energy Trading Company (Amoco), a marketer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that pursuant to a Transportation Agreement dated February 10, 1988, as amended September 1, 1988, under Rate Schedule TI–1, it proposes to transport up to 400,000 MMBtu of natural gas per day for Amoco from various sources and interconnects with other pipeline companies located in New Mexico, Colorado, Wyoming, Utah and Washington to essentially all delivery points located on Northwest's system and interconnects with other pipeline companies in Colorado, Idaho, Oregon, Utah, Washington and Wyoming.

Northwest states that no construction of facilities would be required to provide the transportation service.

Northwest further states that the maximum day, average day, and annual transportation volumes would be approximately 400,000 MMBtu, 5,000 MMBtu and 1,825,000 MMBtu, respectively.

Northwest advises that service under § 284.223(a) commenced September 2, 1988, as reported in Docket No. ST89–35–000.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipe Line Company

[Docket No. CP89–43–000]

Take notice that on October 12, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP89–43–000, an application pursuant to section 7 of the Natural Gas Act for authorization to abandon a firm direct sales service, and a certificate of public convenience and necessity authorizing a revised interruptible direct sales service, all as more fully set forth in the application on file with the Commission and open to public inspection.

United proposes to abandon firm direct sales service to International Paper Company (International Paper). United explains that it was authorized to provide service by certificate authority issued in Docket Nos. G–6060, G–232, and CP66–210. In lieu of the firm service, United proposes to render interruptible service to International Paper as follows:

Location	Prior Certificating Docket Nos.	Proposed MDQ (MMBtu)
(1) Mobile County Alabama	G–6060	14,300
(2) Jackson County Mississippi	G–232	22,000
(3) Warren County Mississippi	CP66–210	27,700
(4) Webster Parish Louisiana	G–232	2,000

United explains that it would continue to use existing facilities to provide the interruptible sales service to International Paper.

Comment date: November 17, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdication conferred upon the Federal Energy regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believe that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as a application for

authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88-25266 Filed 10-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-78-000 et al.]

Southern Natural Gas Company et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP89-78-000]

October 25, 1988.

Take notice that on October 21, 1988, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP89-78-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Rangeline Corporation (Rangeline), a marketer, under Southern's blanket certificate issued in Docket No. CP88-36-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to transport, on an interruptible basis, up to 5,000 MMBtu of natural gas equivalent per day pursuant to a transportation agreement dated August 5, 1988, between Southern and Rangeline. Southern would receive gas at various receipt points in Louisiana, offshore Louisiana, Mississippi and Alabama and redeliver equivalent volumes of gas, less the applicable fuel charge set forth in Rate Schedule IT and any shrinkage, at a deliver point in South Carolina.

Southern further states that the estimated average daily and annual quantities would be 2,000 MMBtu and 730,000 MMBtu, respectively. Service under § 284.223(a) commenced on August 6, 1988, as reported in Docket No. ST88-5717, it is stated.

Comment date: December 9, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Southern Natural Gas Company

[Docket No. CP89-80-000]

October 25, 1988.

Take notice that on October 21, 1988, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP89-80-000 a request pursuant to §§ 284.223 and 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for EnTrade Corporation (EnTrade), under Southern's blanket authorization issued in Docket No. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that pursuant to a transportation agreement dated August 5, 1988, it proposes to receive up to 50 billion Btu of natural gas per day at existing receipt points located in Louisiana, offshore Louisiana, Texas, Alabama, and Mississippi and redeliver the gas to EnTrade at existing interconnections in Whitfield County, Georgia. Southern states that the peak day, average day, and annual quantities would be 50 billion Btu, 10 billion Btu, and 3,650 billion Btu, respectively. It is indicated that a 120-day transportation service under § 284.223(a) commenced on August 6, 1988, as reported in Docket No. ST88-5510.

Southern states that no facilities need be constructed to implement the service. Southern indicates that the agreement provides for a one month primary term but that the agreement would extend for successive terms of one month unless and until cancelled by either party giving five days written notice. Southern proposes to charge the rates and abide by the terms and conditions of its Rate Schedule IT.

Comment date: December 9, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Natural Gas Pipeline Company of America

[Docket No. CP89-73-000]

October 26, 1988.

Take notice that on October 20, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-73-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for MidCon Marketing Corp. (MMC), a marketer, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural states that pursuant to a transportation agreement dated July 5, 1988, as amended on August 17, 1988, it proposes to receive up to 750 billion Btu of natural gas per day from MMC at specified receipt points located in the states of Oklahoma, Texas, Louisiana, New Mexico, Kansas, Iowa, and Wyoming, as well as offshore Texas and Louisiana, and redeliver the gas at delivery points in the states of Illinois, New Mexico, Kansas, Louisiana, and Texas. Natural states that the peak day, average day, and annual volumes would be 750 billion Btu, 100 billion Btu, and 36,500 billion Btu, respectively. It is stated that on August 20, 1988, Natural initiated a 120-day transportation service for MMC under § 284.223(a) as reported in Docket No. ST89-259-000.

Natural further states that no facilities need be constructed to implement the service. Natural states that the primary term of the transportation service would expire December 31, 1988, and continue month-to-month unless cancelled by five day's notice by either party. Natural proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Trunkline Gas Company

[Docket No. CP89-71-000]

October 26, 1988.

Take notice that on October 19, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-71-000 a request pursuant to § 157.205 of the Commission's Regulations to transport gas on behalf of Loutex Energy, Inc. (Loutex), under Trunkline's blanket certificate issued in Docket No. CP86-586-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline requests authorization to transport, on an interruptible basis, up to a maximum of 60,000 dekatherms of natural gas per day for Loutex, a marketer of natural gas, from various points of receipt on its system to Acadian Natural Gas Company (Acadian) in St. Mary Parish, Louisiana. Trunkline anticipates transporting a daily quantity of 20,000 dekatherms and an annual quantity of 7,300,000 dekatherms.

Trunkline states that the transportation of natural gas for Loutex commenced July 1, 1988, as reported in Docket No. ST88-4946, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the

blanket certificate issued to Trunkline in Docket No. CP86–586–000.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of the notice.

5. United Gas Pipe Line Company

[Docket No. CP89–35–000]

October 26, 1988.

Take notice that on October 7, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–35–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service on behalf of Texaco Gas Marketing, a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88–6–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that pursuant to an interruptible gas transportation agreement executed May 6, 1988, as amended, it proposes to transport a maximum daily quantity of 360,500 MMBtu of natural gas from one hundred three (103) points of receipt located in Louisiana, offshore Louisiana, Texas, and Mississippi to twenty-seven (27) points of delivery located in various counties within the States of Louisiana and Mississippi. United further states that the service commenced August 25, 1988, as reported in Docket No. ST88–5830, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP89–48–000]

October 26, 1988.

Take notice that on October 12, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–48–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide transportation for Rangeline Corporation (Rangeline) under WNG's blanket certificate issued in Docket No. CP86–631–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG requests authorization to transport, on an interruptible basis, up to a maximum of 91,400 MMBtu of natural gas per day for Rangeline from various receipt points in Kansas, Oklahoma, Texas and Wyoming to various delivery points on WNG's pipeline system located in Kansas and Missouri. WNG anticipates transporting 40,000 MMBtu on an average day and 33,361,000 MMBtu on an annual basis.

WNG states that the transportation of natural gas for Rangeline commenced on August 12, 1988, as reported in Docket No. ST88–5647–000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to WNG in Docket No. CP86–631–000. WNG proposes to continue this service in accordance with §§ 284.221 and 284.223 of the Commission's Regulations.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Williams Natural Gas Company

[Docket No. CP89–64–000]

October 26, 1988.

Take notice that on October 13, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed an application in Docket No. CP89–64–000 pursuant to section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for permission and approval to abandon all sales services to the Cities of Hamilton, Lebo, McLouth and Sharon, Kansas, referred to collectively as "Cities", all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Williams requests authorization under section 7(b) of the Natural Gas Act to abandon existing full requirements sales service to the Cities under Williams' prior Rate Schedules F, C, and I, retroactively effective as on August 5, 1988, with respect to Hamilton, Lebo and McLouth, and August 18, 1988, for Sharon, the dates Williams indicates that the Cities began receiving all of their gas requirements from third-party suppliers under transportation agreements between Williams and Vesta Energy Company. Williams states that such abandonment authorization is consistent with the Commission's order issued July 5, 1988 (44 FERC ¶ 61,009) as an option for which sales customers could negotiate with Williams upon expiration of their sales contracts.

Williams states further that abandonment authorization retroactive to the time at which the Cities commenced receipt of 100 per cent of their requirements from third-party sources is appropriate and within the Commission's authority under the Natural Gas Act.

Pursuant to 18 CFR 284.10(d)(2), the exercise of the customers' option to convert constitutes consent to the proposed abandonment.

Comment date: November 16, 1988, in accordance with Standard Paragraph F at the end of this notice.

8. Williams Natural Gas Company

[Docket No. CP89–67–000]

October 26, 1988.

Take notice that on October 14, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed an application in Docket No. CP89–67–000 pursuant to section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for permission and approval to abandon all sales services to the Cities of Argonia and Howard, Kansas, The Ramona Gas Authority, Washington County, Oklahoma, and The Northwest Oklahoma Public Facilities Authority, referred to collectively as the "Cities," all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Williams requests authorization under section 7(b) of the Natural Gas Act to abandon existing full requirements sales service to the Cities under Williams's prior Rate Schedules F, C and I, retroactive effective as of August 5, 1988, with respect to Argonia, August 18, 1988, with respect to Howard, and September 1, 1988, with respect to the other two customers, the dates Williams indicates that the Cities began receiving all of their gas requirements from third-party suppliers under transportation agreements between Williams and Vesta Energy Company. Williams states that such abandonment authorization is consistent with the Commission's order issued on July 5, 1988 (44 ¶ 61,009) as an option for which sales customers could negotiate with Williams upon expiration of their sales contracts.

Williams states further that abandonment authorization retroactive to the time at which the Cities commenced receipt of 100 percent of their requirements from third-party sources is appropriate and within the Commission's authority under the Natural Gas Act.

Pursuant to 18 CFR 284.10(d)(2) the exercise of the customers' option to convert constitutes consent to the proposed abandonment.

Comment date: November 16, 1988, in accordance with Standard Paragraph F at the end of this notice.

9. Sea Robin Pipeline Company

[Docket No. CP89–58–000]

October 27, 1988.

Take notice that on October 13, 1988, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–58–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an interruptible transportation service on behalf of Texas Gas Transmission Company (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Sea Robin would receive up to 500 Mcf per day of natural gas made available to Texas Gas from Eugene Island Block 273 and then deliver equivalent volumes to Columbia Gulf Transmission Company (Columbia Gulf) and United Gas Pipe Line Company (United) for the account of Texas Gas, at or near the onshore terminus of Sea Robin's pipeline near Erath, Louisiana.

It is further stated that for each Mcf of gas delivered by Sea Robin to Columbia Gulf and United on behalf of Texas Gas, Sea Robin will charge Texas Gas the currently effective rate for ITS Service as set forth on Sheet No. 4–A1 of Sea Robin's FERC Gas Tariff, Original Volume No. 1 or as it may be amended from time to time.

The term of the transportation agreement between Sea Robin and Texas Gas is stated to be for a primary term of 2 years from the date of initial deliveries and continue in full force and effect from year to year thereafter for successive 1 year terms, subject to termination upon 180 days prior written notice.

Comment date: November 17, 1988, in accordance with Standard Paragraph F at the end of this notice.

10. Panhandle Eastern Pipe Line Company

[Docket No. CP89–29–000]

October 27, 1988.

Take notice that on October 7, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–29–000 a request pursuant to section 7 of the Natural Gas Act and §§ 157.205 and 157.212 of the Commission's Regulations thereunder, for authorization to install, own and operate certain pipeline facilities to provide an additional delivery point to Ohio Gas Company (Ohio Gas), an existing sales customer, and to reassign among delivery points the existing volumes of gas delivered to Ohio Gas, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle indicates that it was granted blanket certificate authorization in Docket No. CP83–83 on January 10, 1983.

Panhandle proposes to construct and operate a new delivery point (Carpenter Road Point) where Ohio Gas' facilities connect with Panhandle's mainline in Defiance County, Ohio. Panhandle estimates that the proposed delivery point would cost $77,670.

Panhandle states that currently pending before the Commission in Docket No. CP88–674 is Panhandle's application to partially abandon the sales contract demand of seven customers including Ohio Gas. Panhandle indicates that the instant application reflects this reduced level of sales service due to conversion to firm transportation. The application states that Ohio Gas has requested that, of the total of 58,553 Mcf of natural gas per day for which Ohio Gas has contracted, Panhandle deliver a total of 10,511 Mcf of natural gas per day to four Ohio Gas delivery points, including the proposed Carpenter Road Point. It is further stated that no specific volumes of gas are to be assigned for delivery only at the Carpenter Road Point, however the addition of the proposed delivery point would not change the total maximum sales delivery obligation to Ohio Gas (58,553 Mcf per day).

Panhandle also states that the proposed Carpenter Road Point would not impact Panhandle's peak day and annual deliveries.

Comment date: December 12, 1988, in accordance with Standard Paragraph G at the end of this notice.

11. Panhandle Eastern Pipe Line Company

[Docket No. CP89–30–000]

October 27, 1988.

Take notice that on October 7, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–30–000 a request under sections 7(b) and 7(c) of the Commission's Regulations under the Natural Gas Act for an amended certificate of public convenience and necessity and for limited-term and permanent orders permitting and approving partial abandonment of jurisdictional sales service provided to Michigan Gas Storage Company (Storage Company), an existing jurisdictional sales customer under Rate Schedule CS–1 of Panhandle's FERC Gas Tariff Original Volume No. 1, and to provide the resulting level of sales service under Rate Schedule LS–1, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Panhandle states that Rate Schedule CS–1 provides for a contract demand of 120,000 Mcf of natural gas per day from November through March and 105,000 Mcf of natural gas per day from April through October. It is stated that Rate Schedule CS–1 also provides for an annual contracted volume (ACV) of 51,945,000 Mcf annually.

Panhandle states that it has entered into an interim contract with Storage Company dated August 25, 1988 (Interim Contract), and that the volumes specified under section A of article 1 of such contract represent a monthly contract demand of 35,000 Mcf of natural gas per day for the period of time from October 1, 1988 through October 31, 1989. It is further stated that the volumes specified under section B of article 1 of the Interim Contract represent a monthly contract demand of 50,000 Mcf of natural gas per day for the period from November 1, 1989 until termination of the Interim Contract.

Panhandle proposes that upon approval of the instant application, the ACV sales service pursuant to Rate Schedule CS–1 be abandoned effective October 1, 1988.

Panhandle submits that at Docket Nos. RP88–240 and RP88–241, it filed revised tariff sheets to recover from its customers, including Storage Company, portions of prudently incurred take-or-pay buy-out and buy-down costs. Panhandle states that the portions of these which are attributable to Storage Company are detailed in those filings and may be amended, supplemented, revised or modified pursuant to Commission authorizations or otherwise as permitted or required by law. Panhandle further states that nothing in its application shall be prejudicial to Panhandle's rights to recover these costs from Storage Company or to recover any other costs attributable to Storage Company.

Comment date: November 17, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest

in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88-25165 Filed 10-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-248-001]

Arkla Energy Resources; Filing of Revised Tariff Sheets In Compliance with Commission Order Dated September 30, 1988

October 26, 1988.

Take notice that on October 20, 1988, Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing the following tariff sheets:

Rate Schedule No. X-26

Original Volume No. 3

Substitute Original Sheet No. 185.2

Rate Schedule No. G-2

First Revised Volume No. 1

Substitute Original Sheet No. 4.1

AER states these tariff sheets are filed in compliance with the Commission order dated September 30, 1988 to reflect the revised allocation of take-or-pay costs to AER's jurisdictional customers after omitting all reference to Williams Natural Gas Company during the 1980-1982 base period on Schedule A. These sheets also track the total revised take-or-pay costs allocated by United Gas Pipe Line Company to AER in its filing dated August 31, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.214). All such motions or protests should be filed on or before November 2, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-25160 Filed 10-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-5-000]

Northwest Pipeline Corp; Waiver Request

October 26, 1988.

Take notice that on October 19, 1988, Northwest Pipeline Corporation ("Northwest") filed with the Federal Energy Regulatory Commission ("Commission") for permission to exclude the jurisdictional portion of Rate Schedule T-1 commodity revenues from the refund subaccount of Account No. 191 effective July 3, 1988. Northwest notes that in its pending rate case in Docket No. RP88-47-000, several different proposals have been made for the treatment of Rate Schedule T-1 commodity revenues. In light of such uncertainty beginning July 3, 1988, Northwest believes that the Rate Schedule T-1 commodity revenues should be excluded from the refund subaccount until the issue is resolved in Docket No. RP88-47-000.

A copy of this filing has been served on Northwest's jurisdictional sales customers and affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 2, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 88-25161 Filed 10-31-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-659-002]

Southern Natural Gas Co.; Proposed Cancellation of Rate Schedule

October 26, 1988.

Take notice that on October 19, 1988, Southern Natural Gas Company (Southern) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 3, to be effective November 18, 1988:

Nineteenth Revised Sheet No. 1
First Revised Sheet No. 121
First Revised Sheet No. 150
First Revised Sheet No. 278
First Revised Sheet No. 319
First Revised Sheet No. 352
First Revised Sheet No. 391
First Revised Sheet No. 424
First Revised Sheet No. 454
First Revised Sheet No. 496
First Revised Sheet No. 529

Southern states that the proposed tariff sheets are being filed to effect the cancellation of Rate Schedules F–5, F–6, F–9, F–10, F–12, F–13, F–14, F–15, F–16 and F–18 of Original Volume No. 3 of Southern's FERC Gas Tariff. Southern states that it has been authorized by the Commission to abandon the services rendered pursuant to such rate schedules and, in fact, has not rendered any service under such rate schedules since 1981.

Southern states that copies of the filing have been mailed to all of Southern's former customers under the subject rate schedules.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protest should be filed on or before November 2, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–25162 Filed 10–31–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ88–2–17–002]

Texas Eastern Transmission Corp.; Compliance Filing

October 26, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 21, 1988, tendered for filing as a part of its FERC Gas Tariff, six copies each of the following tariff sheets:

Fifth Revised Volume No. 1

Substitute Fifth Revised Sheet No. 50
Substitute Fifth Revised Sheet No. 50A
Substitute Fifth Revised Sheet No. 50B
Substitute Fifth Revised Sheet No. 50C
Substitute Fifth Revised Sheet No. 50D
Substitute Fifth Revised Sheet No. 51
Substitute Third Revised Sheet No. 51A
Substitute Third Revised Sheet No. 51B
Substitute Third Revised Sheet No. 51C
Substitute Third Revised Sheet No. 51D

Original Volume No. 2

Substitute Thirty-first Revised Sheet No. 235
Substitute Twenty-third Revised Sheet No. 241
Substitute Thirty-first Revised Sheet No. 322
Substitute Fifth Revised Sheet No. 1274

Texas Eastern states that these substitute tariff sheets are being filed for the sole purpose of complying under protest with Ordering Paragraph (C) of the Commission's ORDER ACCEPTING COMPLIANCE FILING AND DISALLOWING ELECTRIC POWER COST ADJUSTMENT issued October 4, 1988, in Docket No. TQ88–2–17 and TM88–1–17. Texas Eastern is filing concurrently its application for rehearing of such order which denied Texas Eastern recovery of approximately $5.7 million of electric power fuel cost, pursuant to tariff provisions previously approved by the FERC.

Consequently, Texas Eastern states that even though Texas Eastern is filing the above substitute tariff sheets in compliance with the FERC order to remove the $5.7 million adjustment, Texas Eastern does so under protest and only, as stated, for the purpose of complying with the order. Texas Eastern believes that the FERC will reconsider the matter based upon Texas Eastern's application for rehearing and find that Texas Eastern should be allowed to recover the $5.7 million in electric power costs pursuant to its FERC Gas Tariff, in which case the above substitute sheets should be rejected. On this basis, Texas Eastern has requested the FERC to stay acceptance and implementation of these substitute sheets until such time as they have considered and ruled on Texas Eastern's application for rehearing.

The proposed effective date of the above tariff sheets strictly in compliance with the FERC order of October 4, 1988, is August 1, 1988. However, Texas Eastern has respectfully requested the Commission to stay acceptance and implementation of these substitute sheets until such time as they have considered and ruled on Texas Eastern's application for rehearing.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 2, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–25163 Filed 10–31–88; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

Information Collection Activities

[FRL–3470–1]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*,) this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review. Because EPA is requesting expedited review, this notice includes the actual data collection instrument. The ICR itself is also available to the public for review and comment. It describes the nature of the information collection and its expected cost and burden.

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Pesticide Manufacturing Facility Census for 1986, Part B: Financial and Economic Information (EPA ICR #1028) [Note: On April 11, 1988, OMB approved Part A (Technical Information) of the Census, and disapproved Part B. Today's submission consists of a revised Part B questionnaire.]

Abstract: EPA is surveying pesticide manufacturers on production, wastewater generation and treatment, and financial data. The information will be used to develop effluent limitation and pretreatment regulations.

Respondents: Manufacturers of pesticide active ingredients.

Burden Statement: Public reporting burden for this collection of information is estimated to average 60 hours per response. This includes time for reviewing instructions, gathering data, and completing and reviewing the questionnaire.

Estimated No. of Respondents: 120.

Frequency of Collection: One time.

Estimated total burden on Respondents: 7200 hours.

Collection instrument: The questionnaire begins on the following page.

BILLING CODE 6560-50-M

OMB No :
Expiration Date

U.S. ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986

PART B. FINANCIAL AND ECONOMIC INFORMATION

October 21, 1988

Public reporting burden for this collection of information is estimated to average 60 hours per response The reporting burden includes time for reviewing instructions, gathering data, and completing and reviewing the questionnaire.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to

Chief, Information Policy Branch
U S Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

and

Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

OMB No.:
Expiration Date:

Part B: General Instructions

The Pesticide Manufacturing Facility Census has three parts:

Introduction;
Part A: Technical Information; and
Part B: Financial and Economic Information.

The Introduction and Part A were mailed separately and have been completed by your facility. **This package contains the Part B questionnaire and its instructions**. All recipients who completed the Introduction and Part A of the Pesticide Manufacturing Facility Census must complete Part B at this time.

Throughout this questionnaire you will be asked about the Pesticide Active Ingredients listed in Table 1, pages 4 through 12, of this booklet. It may be helpful to review the list and identify active ingredients handled at this facility before completing the questionnaire.

Authority

This mandatory census is conducted under the authority of Section 308 of the Clean Water Act (the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., as amended). Late filing or failure otherwise to comply with these instructions may result in criminal fines, civil penalties and other sanctions as provided by law. Provisions concerning confidentiality of the data collected are explained below.

Purpose

The Pesticide Manufacturing Facility Census questionnaire is designed to collect data on pesticide manufacturing activities and waste treatment practices for the calendar year beginning January 1, 1986 and ending December 31, 1986. Part B requests financial and economic information for the calendar years 1985, 1986 and 1987.

Who Must Respond

All recipients who completed the Introduction and Part A of the Census questionnaire must complete Part B at this time. The entire Pesticide Manufacturing Facility Census questionnaire must be completed by all manufacturers of the Pesticide Active Ingredients listed in Table 1, pages 4 through 12, of this booklet.

Completing the Census

Although Part B may be completed by different officials, the individual who signed the certification for Part A should also certify all parts of the questionnaire by completing and signing the Part B Certification Statement located on page 3 of this questionnaire.

If the space allotted for the answer to any question is not adequate for your complete response, please continue the response in the Comments space at the end of each section. Reference the comments to the appropriate question.

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

GENERAL INSTRUCTIONS - Continued

When and How to Return the Part B Questionnaire

The Pesticide Manufacturing Facility Census Part B questionnaire must be completed and returned within 60 days of receipt to:

Dr. Thomas Fielding WH552
U.S. Environmental Protection Agency
Industrial Technology Division
401 M Street, SW
Washington, D.C. 20460

Questions on the Part B Questionnaire

Questions pertaining to any item in Part B may be directed to:

Dr. Lynne Tudor WH586
U.S. Environmental Protection Agency
Analysis and Evaluation Division
401 M Street, SW
Washington, D.C. 20460
(202) 382 5834

Provisions Regarding Data Confidentiality

Regulations governing the confidentiality of business information are contained in 40 CFR Part 2 Subpart B and 43 Fed. Reg. 40001 (Sept. 8, 1978). Under these regulations, all records, reports, or information supplied to the EPA may be made public by the EPA without further notice if not accompanied by a business confidentiality claim. You may assert a business confidentiality claim covering part or all of the information you submit, other than effluent data, as described in 40 CFR 2.203(b):

> "(b) *Method and time of asserting business confidentiality claim.* A business which is submitting information to EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as 'trade secret,' 'proprietary,' or 'company confidential.' Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state."

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2 Subpart B. In general, submitted records, reports, or information protected by a business confidentiality claim may be disclosed to other employees, officers, or authorized representatives of the United States concerned with carrying out the Clean Water Act, or when relevant to any proceeding under the Act. Effluent data are not eligible for confidential treatment.

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

INTRODUCTION

1. Enter the name of this facility.

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|

2. Enter the EPA Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Establishment Number for this facility, as reported to the EPA on Form 3540-16 ("Pesticides Report for Pesticide-Producing Establishments"). Check the box next to "Not Applicable" if this facility does not have an EPA FIFRA Establishment Number:

|_|_|_|_|_| - |_|_| - |_|_|_| ☐ Not Applicable

3. Enter the DUNS Number of this facility. Check the box next to "Not Applicable if this facility does not have a DUNS Number.

|_|_| - |_|_|_| - |_|_|_|_| ☐ Not Applicable

4. Enter the facility mailing address.

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Street or P.O. Box

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
City or Town | State | Zip Code

5. Enter the address of the physical location of the facility if different from the mailing address.

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Street or Route Number

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
City or Town | State | Zip Code

6. Certification Statement

I certify that I have personally examined and am familiar with the information submitted in all three parts of the Census questionnaire and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Date Survey Completed: |_|_| - |_|_| - |_|_|_|_|
Month Day Year

____
Signature of Certifying Official

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Name of Certifying Official (please print or type)

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Title

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

INTRODUCTION - Continued

7. Review the Pesticide Active Ingredients listed in Table 1 below and circle all codes that correspond to active ingredients manufactured, formulated or packaged at this facility.

TABLE 1. PESTICIDE ACTIVE INGREDIENTS

CODE	ACTIVE INGREDIENT
1	1,1-Bis(chlorophenyl)-2,2,2-trichloroethanol
2	1,2-Dihydro-3,6-pyridazinedione
3	1,2-Ethylene dibromide
4	1,3,5-Triethylhexahydro-s-triazine
5	1,3-Dichloropropene
6	10,10'-Oxybisphenoxarsine
7	1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride
8	1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone
9	2,2'-Methylenebis(3,4,6-trichlorophenol)
10	2,2'-Methylenebis(4,6-dichlorophenol
11	2,2'-Methylenebis(4-chlorophenol)
12	2,2-Dichlorovinyl dimethyl phosphate
13	2,3,5-Trimethylphenylmethylcarbamate
14	2,3,6-Trichlorophenylacetic acid or any salt or ester
14a	_____
14b	_____
14c	_____
14d	_____
15	2,4,5-Trichlorophenoxyacetic acid or any salt or ester
15a	_____
15b	_____
15c	_____
15d	_____
16	2,4-Dichlorophenoxyacetic acid or any salt or ester
16a	_____
16b	_____
16c	_____
16d	_____
17	2,4-Dichlorophenoxybutyric acid or any salt or ester
17a	_____
17b	_____
17c	_____
17d	_____
18	2,4-Dichloro-6-(o-chloroanilino)-s-triazine
19	2,4-Dintro-6-octylphenylcrotonate, 2,6-Dinitro-4-octylphenylcrotonate, and Nitrooctylphenols (The octyl's are a mixture of 1-Methylheptyl, 1-Ethylhexyl, and 1-Propylpentyl)
20	2,6-Dichloro-4-nitroaniline
21	2-Bromo-4-hydroxyacetophenone
22	2-Carbomethoxy-1-methylvinyl dimethyl phosphate, and related compounds
23	2-Chloroallyl diethyldithiocarbamate
24	2-Chloro-1-(2,4-dichlorophenyl)vinyl diethyl phosphate
25	2-Chloro-4-((1-cyano-1-methylethyl)amino)-6-ethylamino)-s-triazine
26	2-Chloro-N-isopropylacetanilide

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
27	2-Methyl-4-chlorophenoxyacetic acid or any salt or ester
27a	
27b	
27c	
27d	
28	2-n-Octyl-4-isothiazolin-3-one
29	2-Pivalyl-1,3-indandione
30	2-(2,4-Dichlorophenoxy)propionic acid or any salt or ester
30a	
30b	
30c	
30d	
31	2-(2-Methyl-4-chlorophenoxy)propionic acid or any salt or ester
31a	
31b	
31c	
31d	
32	2-(4-Thiazolyl)benzimidazole
33	2-(Methylthio)-4-(ethylamino)-6-(1,2-dimethylpropyl)amino-s-triazine
34	2-(m-Chlorophenoxy)propionic acid or any salt or ester
34a	
34b	
34c	
34d	
35	2-(Thiocyanomethylthio)benzothiazole
36	2-((Hydroxymethyl)amino) ethanol
37	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
38	3,4,5-Trimethylphenylmethylcarbamate
39	3,5-Dichloro-N-(1,1-dimethyl-2-propynl)benzamide
40	3,5-Dimethyl-4-(methylthio)phenyl dimethylcarbamate
41	3',4'-Dichloropropionanilide
42	3-Iodo-2-propynyl butylcarbamate
43	3-(a-Acetonylfurfuryl)-4-hydroxycoumarin
44	4,6-Dinitro-o-cresol
45	4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one
46	4-Chlorophenoxyacetic acid or any salt or ester
46a	
46b	
46c	
46d	
47	4-(2-Methyl-4-chlorophenoxy)butyric acid or any salt or ester
47a	
47b	
47c	
47d	
48	4-(Dimethylamino)-m-tolyl methylcarbamate
49	5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole
50	6-Ethoxy-1,2-dihydro-2,2,4-trimethyl quinoline

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
51	8-Quinolinol sulfate
52	Acephate (O,S-Dimethyl acetylphosphoramidothioate)
53	Acifluoren (5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoic acid) or any salt or ester
54	Alachlor (2-Chloro-2',6'-diethyl-N-(methoxymethyl)acetanilide)
55	Aldicarb (2-Methyl-2-(methylthio)propionaldehyde O-(methylcarbamoyl)oxime)
56	Alkyl* dimethyl benzyl ammonium chloride *(50% C14, 40% C12, 10% C16)
57	Allethrin (all isomers and allethrin coil)
58	Ametryn (2-(Ethylamino)-4-(isopropylamino)-6-(methylthio)-s-triazine)
59	Amitraz (N'-2,4-Dimethylphenyl)-N-(((2,4-dimethylphenyl)imino)methyl)-N-methylmethanimidamide)
60	Atrazine (2-Chloro-4-(ethylamino)-6-(isopropylamino)-s-triazine)
61	Bendiocarb (2,2-Dimethyl-1,3-benzodioxol-4-yl methylcarbamate)
62	Benomyl (Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate)
63	Benzene hexachloride
64	Benzyl benzoate
65	Beta-Thiocyanoethyl esters of mixed fatty acids containing from 10 - 18 carbon atoms
66	Bifenox (Methyl 5-(2,4-dichlorophenoxy)-2-nitrobenzoate)
67	Biphenyl
68	Bromacil (5-Bromo-3-sec-Butyl-6-Methyluracil) or any salts or esters
68a	_____
68b	_____
68c	_____
68d	_____
69	Bromoxynil (3,5-Dibromo-4-hydroxybenzonitrile) or any salt or ester
69a	_____
69b	_____
69c	_____
69d	_____
70	Butachlor (N-(Butoxymethyl)-2-chloro-2',6'-diethylacetanilide)
71	b-Bromo-b-nitrostyrene (Note: b = beta)
72	Cacodylic acid (Dimethylarsenic acid) or any salts or ester
72a	_____
72b	_____
72c	_____
72d	_____
73	Captafol (cis-N-((1,1,2,2-Tetrachloroethyl)thio)-4-cyclohexene-1,2-dicarboximide)
74	Captan (N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide)
75	Carbaryl (1-Naphthylmethylcarbamate)
76	Carbofuran (2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate)
77	Carbosulfan (2,2-Dihydro-2,2-dimethyl-7-benzofuranyl(dibutylamino)thio)methylcarbamate)
78	Chloramben (3-Amino-2,5-dichlorobenzoic acid) or any salt or ester
78a	_____
78b	_____
78c	_____
78d	_____
79	Chlordane (Octachloro-4,7-methanotetrahydroindane)
80	Chloroneb (1,4-Dichloro-2,5-dimethoxybenzene)
81	Chloropicrin (Trichloronitromethane)
82	Chlorothalonil (2,4,5,6-Tetrachloro-1,3-dicyanobenzene)

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
83	Chloroxuron (3-(4-(4-Chlorophenoxy)phenyl)-1,1-dimethylurea)
84	Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
85	Chlorpyrifos methyl (O,O-Dimethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate)
86	Chlorpyrifos (O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorthioate)
87	Coordination product of Manganese 16%, Zinc 2% and Ethylenebisdithiocarbamate 62%
88	Copper 8-quinolinolate
89	Copper ethylenediaminetetraacetate
90	Cyano(3-phenoxyphenyl)methyl 4-chloro-a-(1-methylethyl)benzeneacetate (9CA)
91	Cycloheximide (3-(2-(3,5-Dimethy-2-oxocyclohexyl)-2-hydroxyethyl)glutarimide)
92	Dalapon (2,2-Dichloropropionic acid) or any salt or ester
92a	_____
92b	_____
92c	_____
92d	_____
93	Decachloro-bis(2,4-cyclopentadiene-1-yl)
94	Demeton (O,O-Diethyl O-(and S-) (2-ethylthio)ethyl)phosphorothioate)
95	Desmedipham (Ethyl m-hydroxycarbanilate carbanilate)
96	Diammonium salt of ethylenebisdithiocarbamate
97	Dibromo-3-chloropropane
98	Dicamba (3,6-Dichloro-o-anisic acid) or any salt or ester
98a	_____
98b	_____
98c	_____
98d	_____
99	Dichlone (2,3-Dichloro-1,4-naphthoquinone)
100	Diethyl 4,4'-o-phenylenebis(3-thioallophanate)
101	Diethyl diphenyl dichloroethane and related compounds
102	Diethyl dithiobis(thionoformate)
103	Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
104	Diflubenzuron (N-(((4-Chlorophenyl)amino)carbonyl)-2,6-difluorobenzamide)
105	Diisobutylphenoxyethoxyethyl dimethyl benzyl ammonium chloride
106	Dimethoate (O,O-Dimethyl S-((methylcarbamoyl)methyl)phosphorothioate)
107	Dimethyl O-p-nitrophenyl phosphorothioate
108	Dimethyl phosphate ester of 3-hydroxy-N,N-dimethyl-cis-crotonamide
109	Dimethyl phosphate ester of a-methylbenzyl 3-hydroxy-cis-crotonate
110	Dimethyl tetrachloroterephthalate
111	Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate
112	Dinoseb (2-sec-Butyl-4,6-dinitrophenol)
113	Dioxathion (2,3-p-Dioxanedithiol S,S-bis(O,O-diethyl phosphorodithioate))
114	Diphacinone (2-(Diphenylacetyl)-1,3-Indandione)
115	Diphenamid (N,N-Dimethyl-2,2-diphenylacetamide)
116	Diphenylamine
117	Dipropyl isocinchomeronate
118	Disodium cyanodithioimidocarbonate
119	Diuron (3-(3,4-Dichlorophenyl)-1,1-dimethylurea)
120	Dodecylguanidine hydrochloride
121	Dodine (Dodecylguanidine acetate)
122	Endosulfan (Hexachlorohexaahydromethano-2,4,3-benzodioxathiepin-3-oxide)

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
123	Endothall (7-Oxabicyclo(2 2 1)heptane-2,3-dicarboxylic acid) or any salt or ester
123a	_____
123b	_____
123c	_____
123d	_____
124	Endrin (Hexachloroepoxyoctahydro-endo,endo-dimethanonaphthalene)
125	Ethalfluralin (N-Ethyl-N-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzeneamine)
126	Ethion (O,O,O',O'-Tetraethyl S,S'-methylene bisphosphorodithioate)
127	Ethoprop (O-Ethyl S,S-dipropyl phosphorodithioate)
128	Ethyl 3-methyl-4-(methylthio)phenyl 1-(methylethyl) phosphoramidate
129	Ethyl 4,4'-dichlorobenzilate
130	Ethyl diisobutylthiocarbamate
131	Famphur (O,O-Dimethyl O-(p-(dimethylsulfamoyl)phenyl)phosphorothioate)
132	Fenarimol (a-(2-Chlorophenyl)-a-(4-chlorophenyl)-5-pyrimidinemethanol)
133	Fenthion (O,O-Dimethyl O-(4-methylthio)-m-tolyl)phosphorothioate)
134	Ferbam (Ferric dimethyldithiocarbamate)
135	Fluometuron (1,1-Dimethyl-3-(a,a,a-trifluoro-m-tolyl)urea)
136	Fluoroacetamide
137	Folpet (N-((Trichloromethyl)thio)phthalimide)
138	Glyphosate (N-(Phosphonomethyl)glycine) or any salt or ester
138a	_____
138b	_____
138c	_____
138d	_____
139	Glyphosine (N,N-bis(Phosphonomethyl)glycine)
140	Heptachlor (Heptachlorotetrahydro-4,7-methanoindene)
141	Hexadecyl cyclopropanecarboxylate
142	Hexazinone (3-Cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4(1H,3H)-dione)
143	Isofenphos (1-Methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinothioyl)oxy)benzoate)
144	Isopropalin (2,6-Dinitro-N,N-dipropylcumidine)
145	Isopropyl N-phenyl carbamate
146	Karbutilate (tert-Butylcarbamic acid ester of 3-(m-hydroxyphenyl)-1,1-dimethylurea)
147	Lindane (gamma isomer of benzene hexachloride) 99% pure
148	Linuron (3-(3,4-Dichlorophenyl)-1-methoxy-1-methylurea)
149	Malachite green (Ammonium (4-(p-(dimethylamino)-alpha-phenylbenzylidine)-2, 5-cyclohexadien-1-ylidene)-dimethyl chloride
150	Malathion (O,O-Dimethyl dithiophosphate of diethyl mercaptosuccinate)
151	Maneb (Manganese salt of ethylenebisdithiocarbamate)
152	Manganese dimethyldithiocarbamate
153	Mefluidide (N-(2,4-Dimethyl-5-(((trifluoromethyl)sulfonyl)amino)phenyl acetamide) or any salt or ester
153a	_____
153b	_____
153c	_____
153d	_____
154	Methamidophos (O,S-Dimethyl phosphoramidothioate)
155	Methidathion (O,O-Dimethyl phosphorodithioate, S-ester of 4-(mercaptomethyl)-2-methoxy-delta 2-1,3,4-thiadiazolin-5-one)
156	Methomyl (S-Methyl N-((methylcarbamoyl)oxy)thioacetimidate)

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
157	Methoprene (Isopropyl(E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate)
158	Methoxychlor (2,2-bis(p-Methoxyphenyl)-1,1,1-trichloroethane)
159	Methyl benzethonium chloride
160	Methyl bromide
161	Methylarsonic acid or any salt or ester
161a	_____
161b	_____
161c	_____
161d	_____
162	Methyldodecylbenzyl trimethyl ammonium chloride 80% and methyldodecylxylylene bis(trimethylammonium chloride) 20%
163	Methylene bisthiocyanate
164	Methyl-2,3-quinoxalinedithiol cyclic S,S-dithiocarbonate
165	Metolachlor (2-Chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide)
166	Mexacarbate (4-(Dimethylamino)-3,5-xylyl methylcarbamate)
167	Mixture of 83 9% Ethylenebis(dithiocarbamato) zinc and 16 1% Ethylenebisdithiocarbamate, bimolecular and trimolecular cyclic anhydrosulfides and disulfides
168	Monuron TCA = Monuron trichloroacetate
169	Monuron (3-(4-Chlorophenyl)-1,1-dimethylurea)
170	N,N-Diethyl-2-(1-naphathalenyloxy)propionamide
171	N,N-Diethyl-meta-toluamide and other isomers
172	Nabam (Disodium salt of ethylenebisdithiocarbamate)
173	Naled (1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate)
174	Norea (3-Hexahydro-4,7-methanoindan-5-yl-1,1-dimethylurea)
175	Norflurazon (4-Chloro-5-(methylamino)-2-(a,a,a-trifluoro-m-tolyl)-3(2H)-pyridazinone)
176	N-1-Naphthylphthalamic acid or any salt or ester
176a	_____
176b	_____
176c	_____
176d	_____
177	N-2-Ethylhexyl bicycloheptene dicarboximide
178	N-Butyl-N-ethyl-a,a,a-trifluoro-2,6-dinitro-p-toluidine
179	O,O,O,O-Tetraethyl dithiopyrophosphate
180	O,O,O,O-Tetrapropyl dithiopyrophosphate
181	O,O-Diethyl O-(3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl) phosphorothioate
182	O,O-Diethyl O-(p-(methylsulfinyl)phenyl) phosphorothioate
183	O,O-Diethyl S-(2-(ethylthio)ethyl) phosphorodithioate
184	O,O-Dimethyl O-(4-nitro-m-tolyl)phosphorothioate
185	O,O-Dimethyl S-(phthalimidomethyl)phosphorodithioate
186	O,O-Dimethyl S-((4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl)phosphorodithioate
187	O,O-Dimethyl S-((ethylsulfinyl)ethyl phosphorothioate
188	Organo-arsenic pesticides (not otherwise listed)
188a	_____
188b	_____
188c	_____
188d	_____

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
189	Organo-cadmium pesticides
189a	_____
189b	_____
189c	_____
189d	_____
190	Organo-copper pesticides
190a	_____
190b	_____
190c	_____
190d	_____
191	Organo-mercury pesticides
191a	_____
191b	_____
191c	_____
191d	_____
192	Organo-tin pesticides
192a	_____
192b	_____
192c	_____
192d	_____
193	Orthodichlorobenzene
194	Oryzalin (3,5-Dinitro-N4,N4-dipropylsulfanilamide) (Note: N4 = N superscript 4)
195	Oxamyl (Methyl N',N'-dimethyl-N-((methylcarbamoyl)oxy)-1-thiooxamidate)
196	Oxyfluorfen (2-Chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene)
197	O-Ethyl O-(4-(methylthio)phenyl) S-propyl phosphorodithioate
198	O-Ethyl O-(4-(methylthio)phenyl) S-propyl phosphorothioate (9CA)
199	O-Ethyl O-(p-Nitrophenyl)phenylphosphonothioate
200	O-Ethyl S-phenyl ethylphosphonodithioate
201	O-Isopropoxyphenyl methylcarbamate
202	Paradichlorobenzene
203	Parathion (O,O-Diethyl O-(p-nitrophenyl)phosphorothioate)
204	Pendimethalin (N-(1-Ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine)
205	Pentachloronitrobenzene
206	Pentachlorophenol or any salt or ester
206a	_____
206b	_____
206c	_____
206d	_____
207	Perfluidone (1,1,1-Trifluoro-N-(2-methyl-4-(phenylsulfonyl)phenyl)methanesulfonamide)
208	Permethrin ((3-Phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate)
209	Phenmedipham (Methyl m-hydroxycarbanilate m-methyl carbanilate)
210	Phenothiazine
211	Phenylphenol
212	Phorate (O,O-Diethyl S-((ethylthio)methyl)phosphorodithioate)
213	Phosalone (O,O-Diethyl S-((6-chloro-2-oxobenzoxazolin-3-yl)methyi) phosphorothioate)
214	Phosphamidon (2-Chloro-N,N-diethyl-3-hydroxycrotonamide ester of dimethyl phosphate)

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
215	Picloram (4-Amino-3,5,6-trichloropicolinic acid) or any salts or esters
215a	_____
215b	_____
215c	_____
215d	_____
216	Piperonyl butoxide ((Butylcarbityl)(6-propylpiperonyl)ether)
217	Poly(oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylene dichloride
218	Potassium dimethyldithiocarbamate
219	Potassium N-hydroxymethyl-N-methyldithiocarbamate
220	Potassium N-methyldithiocarbamate
221	Potassium N-(a-(nitroethyl)benzyl)ethylenediamine
222	Profenofos (O-(4-Bromo-2-chlorophenyl) O-ethyl S-propyl phosphorothioate)
223	Prometon (2,4-bis(Isopropylamino)-6-methoxy-s-triazine)
224	Prometryn (2,4-bis(Isopropylamino)-6-(methylthio)-s-triazine)
225	Propargite (2-(p-tert-Butylphenoxy)cyclohexyl 2-propynyl sulfite)
226	Propazine (2-Chloro-4,6-bis(isopropylamino)-s-triazine)
227	Propionic acid
228	Propyl (3-dimethylamino)propyl carbamate hydrochloride
229	Pyrethrin coils
230	Pyrethrin I
231	Pyrethrin II
232	Pyrethrum (synthetic pyrethrin)
233	Resmethrin ((5-Phenylmethyl)-3-furanyl)methyl 2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate)
234	Ronnel (O,O-Dimethyl O-(2,4,5-trichlorophenyl)phosphorothioate)
235	Rotenone
236	S,S,S-Tributyl phosphorotrithioate
237	Siduron (1-(2-Methylcyclohexyl)-3-phenylurea
238	Silvex (2-(2,4,5-Trichlorophenoxypropionic acid)) or any salt or ester
238a	_____
238b	_____
238c	_____
238d	_____
239	Simazine (2_Chloro-4,6-bis(ethylamino)-s-triazine)
240	Sodium bentazon (3-Isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one 2,2-dioxide)
241	Sodium dimethyldithiocarbamate
242	Sodium fluoroacetate
243	Sodium methyldithiocarbamate
244	Sulfoxide (1,2-Methylenedioxy-4-(2-(octylsulfidynyl)propyl) benzene
245	S-Ethyl cyclohexylethylthiocarbamate
246	S-Ethyl dipropylthiocarbamate
247	S-Ethyl hexahydro-1H-azepine-1-carbothioate
248	S-Propyl butylethylthiocarbamate
249	S-Propyl dipropylthiocarbamate
250	S-(2-Hydroxypropyl)thiomethanesulfonate
251	S-(O,O-Diisopropyl phosphorodithioate ester of N-(2-mercaptoethyl)benzenesulfonamide
252	Tebuthiuron (N-(5-(1,1-Dimethylethyl)-1,3,4-thiadiazol-2-yl)-N,N'-dimethylurea)
253	Temephos (O,O,O',O'-Tetramethyl-O,O'-thiodi-p-phenylenephosphorothioate)

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

TABLE 1. PESTICIDE ACTIVE INGREDIENTS - Continued

CODE	ACTIVE INGREDIENT
254	Terbacil (3-tert-Butyl-5-chloro-6-methyluracil)
255	Terbufos (S-(((1,1-Dimethylethyl)thio)methyl) O,O-diethyl phosphorodithioate)
256	Terbuthylazine (2-(tert-Butylamino)-4-chloro-6-(ethylamino)-s-triazine
257	Terbutryn (2-(tert-Butylamino)-4-(ethylamino)-6-(methylthio)-s-triazine)
258	Tetrachlorophenol or any salt or ester
258a	_____
258b	_____
258c	_____
258d	_____
259	Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione
260	Thiophanate-methyl (Dimethyl 4,4'-o-phenylenebis(3-thioallophanate))
261	Thiram (Tetramethylthiuram disulfide)
262	Toxaphene (technical chlorinated camphene (67-69% chlorine))
263	Tributyl phosphorotrithioite
264	Trifluralin (a,a,a-Trifluro-2,6-dinitro-N,N-dipropyl-p-toluidine)
265	Warfarin (3-(a-Acetonylbenzyl)-4-hydroxycoumarin) or any salt or ester
265a	_____
265b	_____
265c	_____
265d	_____
266	Zinc 2-mercaptobenzothiazolate
267	Zineb (Zinc ethylenebisdithiocarbamate)
268	Ziram (Zinc dimethyldithiocarbamate)
269	(2,3,3-Trichloroallyl)diisopropylthiocarbamate
270	(3-Phenoxyphenyl)methyl d-cis and tran* 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate *(Max. d-cis 25% ; Min. trans 75%)
271	(4-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
272	Isopropyl N-(3-chlorophenyl) carbamate

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

SECTION 1: FIRM FINANCIAL INFORMATION

1-A. Was this facility owned or controlled by a parent firm or firms on December 31, 1986?

YES .... 1 (GO TO BOX 1-A)
NO .... 2 (SKIP TO SECTION 2, PAGE 18)

BOX 1-A

If there is more than one parent firm, such as in a joint venture, photocopy Section 1, pages 13 through 16, and complete all Section 1 questions for each parent firm.

1-B. Report the name, mailing address and DUNS number of the parent firm.

[1] Name of Parent Firm

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|

[2] Mailing Address of Headquarters

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Street or P.O.Box

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
City or Town | State | Zip Code

[3] What is the DUNS Number of the parent firm?

|_|_| - |_|_|_| - |_|_|_|_| ☐ Not Applicable

1-C. Report the percentage of the parent firm's total 1986 sales (in dollars) generated by each of the activities listed below. (Enter zero if the activity was not applicable. The sum of all percentages must be 100%).

[1] Percentage of sales generated by manufacturing pesticides listed in Table 1, pages 4 through 12 .... |_|_|_|%

[2] Percentage of sales generated by formulating or packaging pesticides listed in Table 1, pages 4 through 12 .... |_|_|_|%

[3] Percentage of sales generated by other activities (SPECIFY) .... |_|_|_|%

Total .... 1 0 0 %

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

SECTION 1: FIRM FINANCIAL INFORMATION

1-D. Did the parent firm acquire this facility after December 31, 1980?

YES ..... 1 (CONTINUE)
NO ..... 2 (SKIP TO QUESTION 1-E)

[1] In what year was this facility acquired by the parent firm?

|1|9|__|__|
Year

[2] How was this facility acquired by the parent firm? (CHECK ONE):

☐ Purchase

☐ Merger: Please list names of the companies that merged

|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|

|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|

|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|__|

☐ Takeover

☐ Founded

☐ Other (SPECIFY) _____

1-E. On December 31, 1986, did the parent firm own or control any other U.S. facilities at which any of the pesticides listed on Table 1, pages 4 through 12, were manufactured or formulated and/or packaged?

YES ..... 1 (CONTINUE)
NO ..... 2 (SKIP TO QUESTION 1-G)

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
Part B Financial and Economic Information

SECTION 1: FIRM FINANCIAL INFORMATION

1-F. Report the names and EPA Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Establishment Numbers (as reported to the EPA on Form 3540-16) for all other facilities owned or controlled by the parent firm at which any of the pesticides listed on Table 1, pages 4 through 12, were manufactured or formulated and/or packaged. Check the box next to "Not Applicable" if the facility does not have an EPA FIFRA Establishment Number. Check whether each facility was a manufacturer or formulator/packager of the pesticides listed on Table 1. If more space is required to give a complete answer to this question, photocopy this page.

[1] |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Name of Facility

|_|_|_|_|_|_| - |_|_|_| - |_|_|_|_| ☐ Not Applicable
EPA FIFRA Establishment Number

☐ Manufacturer ☐ Formulator/Packager

[2] |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Name of Facility

|_|_|_|_|_|_| - |_|_|_| - |_|_|_|_| ☐ Not Applicable
EPA FIFRA Establishment Number

☐ Manufacturer ☐ Formulator/Packager

[3] |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Name of Facility

|_|_|_|_|_|_| - |_|_|_| - |_|_|_|_| ☐ Not Applicable
EPA FIFRA Establishment Number

☐ Manufacturer ☐ Formulator/Packager

[4] |_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Name of Facility

|_|_|_|_|_|_| - |_|_|_| - |_|_|_|_| ☐ Not Applicable
EPA FIFRA Establishment Number

☐ Manufacturer ☐ Formulator/Packager

ENVIRONMENTAL PROTECTION AGENCY
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SECTION 1: FIRM FINANCIAL INFORMATION

1-G. Report the total revenue of the parent firm for 1985, 1986, and 1987 in thousands of dollars.

($000)

[1] 1985 Revenue .... ______________

[2] 1986 Revenue .... ______________

[3] 1987 Revenue .... ______________

1-H. Was the parent firm (listed on question 1B) itself owned or controlled by another company?

YES .... 1 (CONTINUE)
NO .... 2 (SKIP TO SECTION 2)

1-I. Report the name, mailing address and DUNS number of the controlling firm.

[1] Name

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|

[2] Mailing Address of Headquarters

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Street or P.O.Box

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
City or Town | State | Zip Code

[3] DUNS Number

|_|_| - |_|_|_| - |_|_|_|_| ☐ Not Applicable

ENVIRONMENTAL PROTECTION AGENCY
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SECTION 1: FIRM FINANCIAL INFORMATION

Section 1 Comments. Reference entry by question number.

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SECTION 2: FACILITY FINANCIAL INFORMATION

All of the information requested in Section 2 applies to this facility.

2-A. Report the percent by quantity of total 1986 production volume generated by each of the following activities at this facility. (Enter zero if the activity was not applicable. The sum of all percentages must be 100%).

[1] Production generated by manufacturing and/or formulating and packaging pesticide active ingredients listed in Table 1, pages 4 through 12 ..... |__|__|__|%

[2] Production generated by manufacture of intermediates that are sold ..... |__|__|__|%

[3] Production generated by manufacturing and/or formulating and packaging EPA registered pesticides not listed in Table 1, pages 4 through 12 ..... |__|__|__|%

[4] Production generated by manufacturing and/or formulating and packaging chemicals other than EPA registered pesticides ..... |__|__|__|%

[5] Production generated by other activities (SPECIFY) ..... |__|__|__|%

_____

Total ..... 1 0 0 %

2-B. Report the calendar year during which:

[1] Operations began at this facility ..... |__|__|__|__| Year

[2] Manufacturing and/or formulating/packaging of either pesticide active ingredients or pesticide products began at this facility ..... |__|__|__|__| Year

[3] The most recent major expansion of plant and equipment with respect to pesticides occurred at this facility ..... |__|__|__|__| Year

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-C. Instructions for reporting Balance Sheet information on page 21.

Question 2-C on page 21 requests facility Balance Sheet information. Please read the instructions and definitions below before completing Question 2-C. The number in brackets, for example, "[1] Inventories," correspond to Balance Sheet entries.

Reporting Period

Amounts for items in the Balance Sheets must be reported as of December 31, of calendar years 1985, 1986 and 1987 or the last day of the facility fiscal year. If your facility does not operate on a calendar year, you may substitute fiscal year data.

Reporting Conventions

Report all data for the facility. Report all dollar amounts in thousands.

If, for certain items, you do not have amounts at the facility level, you may use the balance sheets of the firm that owns and controls your facility to estimate the amounts at the facility level. Base the estimate on your facility's share of sales. If you have estimated an amount for a particular item, then place an asterisk (*) to the right of the entry.

Balance Sheet Definitions

Current Assets: Report current assets, including cash and other assets that are reasonably expected to be converted to cash, sold or consumed during the year.

[1] Inventories: Report the total value of all inventories owned by this facility regardless of where the inventories are held. Inventories consist of finished products, products in the process of being manufactured, raw materials, supplies, fuels etc. Report inventories at cost or market value, whichever is lower.

[2] Other Current Assets: Report all other current assets such as prepaid expenses like rent, operating supplies, and insurance; also include cash and accounts receivable.

[3] Total Current Assets: Report the sum of items [1] and [2].

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-C. Instructions for reporting Balance Sheet information on page 21 - continued

Noncurrent Assets: Report the total dollar value of all noncurrent assets, including physical items such as property, plant and equipment; long-term investments and intangibles. Include:

Land: Report the original cost of land.
Buildings/Plant: Report the cost of buildings including expansions and renovations net of depreciation.
Equipment and Machinery: Report the cost of all equipment and machinery net of depreciation.
Intangibles: Report intangibles including franchises, patents, trademarks, copyrights net of accumulated amortization.
Other Noncurrent Assets: Report all noncurrent assets, like investments in capital stocks and bonds.

[4] **Total Noncurrent Assets**: Report the total noncurrent assets from each of the items listed above that apply.

[5] **Total Current and Noncurrent Assets**: Report the sum of items [3] and [4].

Current Liabilities: Report the total dollar value of all current liabilities that fall due for payment within the year.

[6] **Total Current Liabilities**: Report all current liabilities like accounts payable, accrued expenses and taxes and the current portion of long-term debt.

Noncurrent Liabilities and Equity: Report all noncurrent liabilities that fall due beyond one year.

[7] **Long Term Debt and Other Noncurrent Liabilities**: Report all long-term debt such as bonds, debentures, and bank debt, and all other noncurrent liabilities like deferred income taxes.

[8] **Owner Equity**: Report the difference between total assets and total liabilities. The amount obtained should include contributed or paid in capital (preferred and common stock) and retained earnings.

[9] **Total Noncurrent Liabilities and Equity**: Report the sum of items [7] and [8].

[10] **Total Liabilities and Equity**: Report the sum of items [6] and [9].

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-C. Complete the facility Balance Sheet: Table 2-C below. Enter all information in thousands of dollars as of December 31 for calendar years 1985, 1986, and 1987. If the facility fiscal year does not correspond to the calendar year, please enter the months of the facility fiscal year below.

Facility 1986 fiscal year was from _____ month to _____ month.

TABLE 2-C. BALANCE SHEET

ASSETS

		1985 ($000)	1986 ($000)	1987 ($000)
Current assets				
[1]	Inventories			
[2]	Other current assets			
[3]	Total current assets			
Noncurrent assets				
[4]	Total noncurrent assets			
[5]	Total current and noncurrent assets			

LIABILITIES AND EQUITY

		1985 ($000)	1986 ($000)	1987 ($000)
Current liabilities				
[6]	Total current liabilities			
Noncurrent liabilities and equity				
[7]	Long term debt and other noncurrent liabilities			
[8]	Owner equity			
[9]	Total noncurrent liabilities and equity			
[10]	Total liabilities and equity			

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-D. Instructions for reporting facility Income Statement information on page 24.

Question 2-D on page 24 requests facility income and expense information. Please read the instructions and definitions below before completing Question 2-D. The numbers in brackets, for example, "[1] Sales of Pesticide Chemicals," correspond to the entries on Table 2-D.

Reporting Period

Amounts for items in the Income Statements must be reported as of December 31 of calendar years 1985, 1986 and 1987 or the last day of the facility fiscal year. If your facility does not operate on a calendar year basis, you may substitute fiscal year data.

Reporting Conventions

Report all data for the facility. Report all dollar amounts in thousands.

If, for certain items, you do not have amounts at the facility level, you may use the Income Statements of the firm that owns and controls your facility to estimate the amounts at the facility level. If you need to estimate any items, estimate them based on your facility's share of sales. If you have estimated an amount for a particular item, then place an asterisk (*) to the right of the entry.

Income Statement Definitions

Revenues

[1] **Sale of Pesticide Chemicals**: Report the total sales value of all pesticide chemicals. This should include all pesticide active ingredients, intermediates, and finished pesticide products. In cases where the pesticide chemical is not sold (there is no known sales price) but is transferred to another facility owned by the company for further processing and/or formulating/packaging, the facility share of sales generated by the final product should be allocated to the facility. This share should be estimated based on its percent of total production costs. Divide the sale of pesticide chemicals into the following categories:

[a] **Pesticide chemicals listed in Table 1**: Report revenues from the manufacture and/or formulating/packaging of pesticide active ingredients listed in Table 1, pages 4 through 12 or intermediates produced during the manufacture of active ingredients listed in Table 1.

[b] **Other Registered Pesticide Chemicals**: Report revenues from pesticide chemicals not reported in [1a].

[2] **Revenue from Pesticide Contract Work or Tolling**: Report the revenue from pesticide contract work done by this facility for other facilities or firms.

[3] **Other Revenue**: Report all other revenues like the sales value of products and services not reported in items [1] and [2].

[4] **Total Facility Revenues**: Report the sum of items [1] through [3].

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-D. Instructions for reporting facility Income Statement information on page 24 - continued

Expenses

Manufacturing Costs (Cost of Materials and Services Used): Include all manufacturing and/or formulating/packaging costs like direct materials, direct labor and indirect costs that were either put into production, used as operating supplies, or used in repair and maintenance. Report total delivered cost after discounts and including freight of materials actually consumed or put into production during the year. Include purchases, cost of interplant transfers to the facility, and withdrawal from inventories.

Pesticides

[5] **Material and Product Costs:** Report the total cost of all raw materials including packaging materials that were used in the production and/or formulating/packaging of pesticide chemicals/products. Include cost of products bought and sold.

[6] **Direct Labor Costs:** Report the total cost, including fringe benefits, of all direct labor that can be traced to the production and/or formulating/packaging of pesticide chemicals/products.

[7] **Cost of Pesticide Contract Work or Tolling:** Report the cost of all contract work done for you by others using materials furnished by your facility. Include the total payments made during the year for such work, including freight out and in.

[8] **Other Pesticide Costs:** Include all other pesticide related expenses, such as effluent treatment and disposal, and energy used directly in producing the product, not included in [5] through [7].

Non Pesticides

[9] **Nonpesticide Costs:** Report all other manufacturing costs not included in items [5] through [8]. Include manufacturing costs associated with nonpesticide chemicals or products. Report the types of cost for items [5] through [8] for nonpesticide products and services.

Report the expenses listed below for the whole facility, not just pesticides.

[10] **Depreciation:** Report the depreciation on buildings, plant, equipment, and machinery at your facility.

[11] **Fixed Overheads:** Report the total from all types of overhead. Include rent, nonproduction utilities, selling costs, administration and general expenses for your facility.

[12] **Research and Development:** Report all research and development costs incurred during the year.

[13] **Interest:** Report the total interest expense on all funds during the year.

[14] **Federal, State and Local Taxes:** Report the total federal, state and local taxes payable during the year.

[15] **Other Expenses:** Report all other expenses not reported in items [10] through [14].

[16] **Total Costs and Expenses:** Report the sum of items [5] through [15].

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-D. Complete the facility Income Statements, Table 2-D below. Enter all information in thousands of dollars as of December 31 for calendar years 1985, 1986, and 1987. If the facility fiscal year does not correspond to the calendar year, please enter the months of the facility fiscal year below.

Facility 1986 fiscal year was from _____ month to _____ month.

TABLE 2-D. INCOME STATEMENTS

REVENUES

	1985 ($000)	1986 ($000)	1987 ($000)
[1] Sales of pesticide chemicals			
[a] Pesticide chemicals listed in Table 1			
[b] Other registered pesticide chemicals			
[2] Revenue from pesticide contract work or tolling			
[3] Other revenue			
[4] Total facility revenues			

EXPENSES

Manufacturing costs	1985 ($000)	1986 ($000)	1987 ($000)
[5] Pesticide material and product costs			
[6] Pesticide direct labor costs			
[7] Cost of pesticide contract work			
[8] Other pesticide costs			
[9] Nonpesticide costs			
Facility costs			
[10] Depreciation			
[11] Fixed overheads			
[12] Research and development			
[13] Interest			
[14] Federal, state and local taxes			
[15] Other expenses			
[16] Total costs and expenses			

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-E. Did this facility borrow funds to finance a capital investment during calendar year 1986?

YES ..... 1 (CONTINUE)
NO ..... 2 (SKIP TO QUESTION 2-G)

2-F. What was the 1986 interest rate charged? ..... |__|__|__|%

2-G. Enter the number of years over which a typical capital project is financed.

_____ years

Comments for Section 2: Questions 2-A through 2-G. Reference entry by question number.

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SECTION 2: FACILITY FINANCIAL INFORMATION

2-H. This section requests information on Table 1 Pesticide Active Ingredients produced at your facility in 1986.

Instructions for completing Table 2-H Pesticide Production: Technical Grade Products, p. 30.

Column [1] **Active Ingredient Code.** Enter the code for every Table 1 active ingredient that your facility produced in 1986 as a technical grade product. If part of the production was transferred to another facility, list that part as a separate entry as described by Product Code B. If you need additional space to report, photocopy the table before making any marks on it.

Column [2] **Product Code.** Enter the code that best describes the product reported in column [1].

Code Definition

A Table 1 Pesticide Active Ingredients produced at this facility in 1986 to be sold as technical grade products by this facility.

B Table 1 Pesticide Active Ingredients produced at this facility in 1986 and transferred to another facility owned by this firm.

C Table 1 Pesticide Active Ingredients produced at this facility in 1986 for another firm (i.e., tolling).

Column [3] **1986 Average Unit Production and Packaging Cost in Dollars.** Provide the average production cost for one unit of the item reported in column [1]. Include such costs as material costs (i.e., the costs of all raw materials, including packaging materials that were used in the production and packaging of pesticide products), direct labor costs, and any other pesticide costs.

Note that the column [3] entry corresponds to items [5] through [8] under question 2-D on page 23.

Express the costs in dollars. Do not include allocations for corporate overhead, administrative expenses, research and development, capital costs or interest expense.

Column [4] **1986 Average Unit Sales Price in Dollars.** Report the average selling price for one unit of the item reported in column [1]. Express the selling price in dollars. If the pesticide chemical is not sold when it leaves the facility, but is transferred to another facility owned by the firm for further processing, the sales price of the final product should be allocated to both facilities based on their share of the costs to produce the product. This is referred to as the "percentage of cost procedure." An example of the percentage of cost procedure can be found on pages 28-30.

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SECTION 2: FACILITY FINANCIAL INFORMATION

Instructions for completing Table 2-H Pesticide Production: Technical Grade Products - continued

Column [5] **1986 Production Quantity.** In column [5], report the total quantity of the item reported in column [1] that was manufactured at this facility during 1986.

Column [6] **Unit of Measure.** In column [6], circle the code that corresponds to the unit of measure you used to calculate the information you reported in columns [3], [4], [5] and [7].

P = Pounds
T = Short tons
M = Metric tons
G = Gallons

Column [7] **Sum Annual Production Over Three Years (1985-1987).** Provide the total amount (sum) of the product reported in column [1] that was produced by this facility in 1985, 1986, and 1987 combined.

Column [8] **Percent Exported Over Three Years (1985-1987).** Report the percent of the product in column [1] exported in 1985, 1986, and 1987 combined, i.e., what percentage of column [7] was exported?

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SECTION 2: FACILITY FINANCIAL INFORMATION

EXAMPLE OF PERCENT OF COST PROCEDURES

The following is an example of a hypothetical facility that both produces and formulates/packages active ingredients. It demonstrates use of the "Percentage of Cost Procedure."

Assume the facility produces 1,200 lbs of active ingredient 000 in 1986, of which:

400 lbs are sold as technical grade.

200 lbs are formulated and packaged on site as product group P01.

200 lbs are formulated and packaged by another facility owned by this company also as product group P01

200 lbs are formulated and packaged as product group P01 under contract by another facility not owned by this firm. The contract work is paid for by this plant.

200 lbs are combined with 100 lbs of active ingredient 001 to formulate 300 lbs of product group P02. Active ingredient 001 is purchased from another firm.

Unit sales are:

$2.50/lb for technical grade

$4.00/lb for formulated product group P01

$4.25/lb for formulated product group P02

Unit production, formulating and packaging costs are:

Production of active ingredient 000	$1.50/lb
Purchase of active ingredient 001	$2.00/lb
Formulating and packaging on site	$0.50/lb
Formulating and packaging at other facility owned by this company	$0.50/lb
Formulating and packaging at other facility not owned by this company	$0.60 lb

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SECTION 2: FACILITY FINANCIAL INFORMATION

EXAMPLE (continued)

Instructions for completing the 1985-1987 Pesticide Production Tables. This facility would complete the Pesticide Production Table for Technical Grade Products and Formulated/Packaged Products as follows:

Technical Grade Products (Table 2-H, p. 30)

Line 1 400 lbs of AI 000 are sold as technical grade. The unit cost of production is $1.50/lb and the unit sales price is $2.50/lb. This corresponds to Product Code A on page 26.

Line 2 200 lbs of AI 000 are transferred to another facility owned by this firm to be formulated and packaged. The unit cost of production to this facility remains $1.50/lb and the selling price of the formulated product is $4.00/lb. Since the production cost represents 3/4 of the total cost to produce the formulated product, the unit sales price for this facility is 3/4 of the total unit sales price of $4.00/lb or $3.00/lb. This corresponds to Product Code B on page 26.

Formulated/Packaged Products (Table 2-J, p. 37)

Line 1 200 lbs of AI 000 are formulated/packaged on site by this facility. The total unit cost of the formulated and packaged product is $2.00/lb ($1.50/lb for production plus $.50 for formulating and packaging. Since all unit costs are incurred by this facility, the total unit sales price of $4.00/lb is allocated to this facility. This corresponds to Product Code A on page 35. (Note: This 200 lbs is in addition to the 400 lbs + 200 lbs listed on Line 1 and Line 2 under Technical Grade Products.)

Line 2 200 lbs of AI 000 are produced by this facility and formulated/packaged by another firm under contract to this facility. This facility pays for the contract work. The total unit cost of the formulated/packaged product is $2.10/lb ($1.50/lb for production plus $.60/lb for formulating/packaging). Since all unit costs are incurred by this facility, the total unit sales price of $4.00/lb is allocated to this facility. This corresponds to Product Code B on page 35.

Line 3 200 lbs of AI 000 are combined with 100 lbs of AI 001 to formulate 300 lbs of products in Product Group P02. AI 001 is purchased from another firm. The total cost of production is $2.16/lb (2/3 of $1.50 + 1/3 of $2.00 for active ingredients plus $.50 for formulating/packaging). Since this facility incurred the total unit cost, the total unit sales price is allocated to this facility. This corresponds to Produce Code E on page 35. (Note: If the facility purchases active ingredient 001 from another firm and then formulates/packages it, this would be product group P03 and would also be assigned Product Code E.

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2-H. EXAMPLE PESTICIDE PRODUCTION: TECHNICAL GRADE PRODUCTS

[1] Active ingredient code	[2] Product code	[3] Average unit production and packaging cost in $	[4] Average unit sales in $	[5] 1986 Production quantity	[6] Unit of measure	[7] Sum annual production over 3 yrs. (1985 - 1987)	[8] Percent exported over 3 yrs. (1985 - 1987)
0 0 0	A	1.50	2.50	400	(P) T M G	1,000	10
0 0 0	B	1.50	3.00	200	(P) T M G	600	5

2-J. EXAMPLE PESTICIDE PRODUCTION: FORMULATED OR PACKAGED PRODUCTS

[1] Product group	[2] Active ingredient code	[3] Product or trade name	[4] Product code	[5] Average unit product and formulating/ packaging cost in $	[6] Average unit sales in $	[7] 1986 Production quantity	[8] Unit of measure	[9] Sum annual production over 3 yrs. (1985 - 1987)	[10] Percent exported over 3 yrs. (1985 - 1987)
P 0 0 1	0 0 0	RDX	A	2.00	4.00	200	(P) T M G Other (specify)	500	15
P 0 0 1	0 0 0	RDX	B	2.10	4.00	200	(P) T M G Other (specify)	700	15
P 0 0 2	0 0 0	BANY	C	2.16	4.25	300	(P) T M G Other (specify)	600	10

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2-H. PESTICIDE PRODUCTION: TECHNICAL GRADE PRODUCTS

[1] Pesticide active ingredient code	[2] Product code	[3] 1986 Average unit production and formulating/packaging cost in $	[4] 1986 Average unit sales in $	[5] 1986 Production quantity	[6] Unit of measure	[7] Sum annual production over 3 yrs. (1985 - 1987)	[8] Percent exported over 3 yrs. (1985 - 1987)
___ ___ ___	___	______.___	______.___	________	P T M G Other (specify)	________	___ ___ ___
___ ___ ___	___	______.___	______.___	________	P T M G Other (specify)	________	___ ___ ___
___ ___ ___	___	______.___	______.___	________	P T M G Other (specify)	________	___ ___ ___
___ ___ ___	___	______.___	______.___	________	P T M G Other (specify)	________	___ ___ ___
___ ___ ___	___	______.___	______.___	________	P T M G Other (specify)	________	___ ___ ___
___ ___ ___	___	______.___	______.___	________	P T M G Other (specify)	________	___ ___ ___
___ ___ ___	___	______.___	______.___	________	P T M G Other (specify)	________	___ ___ ___

ENVIRONMENTAL PROTECTION AGENCY
PESTICIDE MANUFACTURING FACILITY CENSUS FOR 1986
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SECTION 2: FACILITY FINANCIAL INFORMATION

2-I. During calendar year 1986, did this facility sell any Intermediates produced during the manufacture of pesticide products containing a pesticide active ingredient listed in Table 1? (CIRCLE YES OR NO)

YES ..... > (READ THE INSTRUCTIONS BELOW AND COMPLETE TABLE 2-I ON PAGE 34)

NO ..... > (GO TO QUESTION 2-J ON PAGE 35)

Instructions for completing Table 2-I Pesticide Production: Intermediates.

Column [1] **Intermediate Name.** Enter the name of every intermediate produced in 1986 during the manufacture of Table 1 Pesticide Active Ingredients and sold. Please include all chemicals and codes that you listed in Part A of the Pesticide Manufacturing Facility Census questionnaire. If you need additional space to report, photocopy the table before making any marks on it.

Column [2] **Active Ingredient Code.** Enter the code for every Table 1 active ingredient associated with your production of the intermediate listed in column [1].

Column [3] **Average Unit Production Cost in Dollars.** Provide the average production cost for one unit of the item reported in column [1]. Include such costs as material costs (i.e., the costs of all raw materials, including packaging materials that were used in the production and packaging of pesticide products), direct labor costs, the costs of pesticide contract work or tolling done for you by others, and any other pesticide costs.

Note that the column [3] entry corresponds to items [5] through [8] under question 2-D on page 23.

Express the costs in dollars. Do not include allocations for corporate overhead, administrative expenses, research and development, capital costs or interest expense.

Column [4] **1986 Average Unit Sales Price in Dollars.** Report the average selling price for one unit of the item reported in column [1]. Express the selling price in dollars. If the pesticide chemical is not sold when it leaves the facility, but is transferred to another facility owned by the firm for further processing, the sales price of the final product should be allocated to both facilities based on their share of the costs to produce the product. This is referred to as the "percentage of cost procedure."

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SECTION 2: FACILITY FINANCIAL INFORMATION

Instructions for completing Table 2-I Pesticide Production: Intermediates - continued

Column [5] **1986 Quantity Sold.** In column [5], report the total quantity of the item reported in column [1] that was produced at this facility during 1986 and sold.

Column [6] **Unit of Measure.** In column [6], circle the code that corresponds to the unit of measure you used to calculate the information you reported in columns [3], [4], [5] and [7].

P = Pounds
T = Short tons
M = Metric tons
G = Gallons

Column [7] **Sum Annual Quantity Sold Over Three Years (1985-1987).** Provide the total amount (sum) of the product reported in column [1] that was produced and sold by this facility in 1985, 1986, and 1987 combined.

Column [8] **Percent Exported Over Three Years (1985-1987).** Report the percent of the product in column [1] exported in 1985, 1986, and 1987 combined, i.e., what percent of column [7] was exported.

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2-I. PESTICIDE PRODUCTION: INTERMEDIATES

[1] Intermediate name	[2] Active ingredient code	[3] 1986 Average unit production cost in $	[4] 1986 Average unit sales price in $	[5] 1986 Quantity sold	[6] Unit of measure	[7] Sum annual production over 3 yrs. (1985 - 1987)	[8] Percent exported over 3 yrs. (1985 - 1987)
____	|__|__|__|	|____.____|	|____.____|	|________|	P T M G ____ Other (specify)	|________|	|__|__|__|
____	|__|__|__|	|____.____|	|____.____|	|________|	P T M G ____ Other (specify)	|________|	|__|__|__|
____	|__|__|__|	|____.____|	|____.____|	|________|	P T M G ____ Other (specify)	|________|	|__|__|__|
____	|__|__|__|	|____.____|	|____.____|	|________|	P T M G ____ Other (specify)	|________|	|__|__|__|
____	|__|__|__|	|____.____|	|____.____|	|________|	P T M G ____ Other (specify)	|________|	|__|__|__|
____	|__|__|__|	|____.____|	|____.____|	|________|	P T M G ____ Other (specify)	|________|	|__|__|__|

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2-J. During calendar year 1986, did this facility produce any formulated or packaged products containing a pesticide active ingredient listed in Table 1? (CIRCLE YES OR NO)

YES ..... > (READ THE INSTRUCTIONS BELOW AND COMPLETE TABLE 2-J ON PAGE 37)

NO ..... > (GO TO QUESTION 2-K ON PAGE 38)

Instructions for completing Table 2-J Pesticide Production: Formulated or Packaged Products.

Column [1] **Product Group.** Group all formulated/packaged products according to the active ingredient(s) they contain, regardless of relative proportions or concentrations and assign each group a number. For example, if your products contain two active ingredients (say A and B), group all products containing only A into one group (call it #1), group all products containing B into a second group (call it #2) and all products containing both A and B into a third group (call it #3). Report dry and wet formulations separately. If you need additional space to report, photocopy this table before making any marks on it.

Column [2] **Active Ingredient Code.** For each product group formulated/packaged in 1986, enter the code for every Table 1 active ingredient that it contained.

Column [3] **Product or Trade Name.** Enter the trade name or name of the product.

Column [4] **Product Code.** Enter the code that best describes the product reported in column [1].

Code Definition

A Table 1 pesticide products produced and formulated/packaged at this facility in 1986.

B Table 1 pesticide products produced at this facility in 1986 and formulated/packaged for you by another firm on a contract basis.

C Table 1 pesticide products formulated/packaged by this facility in 1986, and produced by another facility owned by the firm that owns this facility.

D Table 1 pesticide products formulated/packaged by this facility on a contract basis in 1986, for a firm other than the firm that owns this facility.

E Table 1 pesticide products formulated/packaged by this facility from active ingredients purchased from another firm.

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Instructions for completing Table 2-J Pesticide Production: Formulated or Packaged Products - continued

Column [5] **1986 Average Unit Production and Formulating/Packaging Cost in Dollars.** Provide the average production cost for one unit. Include such costs as material costs (i.e., the costs of all raw materials, including packaging materials that were used in the production and/or formulation and packaging of pesticide products), direct labor costs, the costs of pesticide contract work or tolling done for you by others, and any other pesticide costs.

Note that the column [5] entry corresponds to items [5] through [8] under question 2-D on page 23.

Express the costs in dollars. Do not include allocations for corporate overhead, administrative expenses, research and development, capital costs or interest expense.

Column [6] **1986 Average Unit Sales Price in Dollars.** Report the average selling price for one unit of the item reported in column [1]. Express the selling price in dollars. If the pesticide chemical is not purchased by your facility, but is transferred to your facility from another facility owned by the firm for further processing, the sales price of the final product should be allocated to both facilities based on their share of the costs to produce the product. This is referred to as the "percentage of cost procedure." An example of the percentage of cost procedure can be found on pages 28 and 29.

Column [7] **1986 Production Quantity.** In column [5], report the total quantity of the item reported in column [1] that was formulated/packaged by this facility during 1986.

Column [8] **Unit of Measure.** In column [6], circle the code that corresponds to the unit of measure you used to calculate the information you reported in columns [5], [6], [7] and [8].

P = Pounds
T = Short tons
M = Metric tons
G = Gallons

Column [9] **Sum Annual Production Over Three Years (1985-1987).** Provide the total amount (sum) of the product reported in column [1] that was formulated/packaged by this facility in 1985, 1986, and 1987 combined.

Column [10] **Percent Exported Over Three Years (1985-1987).** Report the percent of the product exported in 1985, 1986, and 1987 combined, i.e., what percent of column [9] was exported.

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2-J. PESTICIDE PRODUCTION TABLE: FORMULATED OR PACKAGED PRODUCTS

[1] Product group	[2] Active ingredient code	[3] Product or trade name	[4] Product code	[5] 1986 Average unit production and formulating/packaging cost in $	[6] 1986 Average unit sales price in $	[7] 1986 Production quantity	[8] Unit of measure	[9] Sum annual production over 3 yrs. (1985 - 1987)	[10] Percent exported over 3 yrs. (1985 - 1987)
P _ _ _	_ _ _ / _ _ _ / _ _ _ / _ _ _	______	_	____.__	____.__	______	P T M G / ______ Other (specify)	______	_ _ _
P _ _ _	_ _ _ / _ _ _ / _ _ _ / _ _ _	______	_	____.__	____.__	______	P T M G / ______ Other (specify)	______	_ _ _
P _ _ _	_ _ _ / _ _ _ / _ _ _ / _ _ _	______	_	____.__	____.__	______	P T M G / ______ Other (specify)	______	_ _ _
P _ _ _	_ _ _ / _ _ _ / _ _ _ / _ _ _	______	_	____.__	____.__	______	P T M G / ______ Other (specify)	______	_ _ _
P _ _ _	_ _ _ / _ _ _ / _ _ _ / _ _ _	______	_	____.__	____.__	______	P T M G / ______ Other (specify)	______	_ _ _

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2-K. Facility 1986 Markets

Estimate the percentage of this facility's total 1986 production that was delivered to the markets listed below. (Enter zero if the market is not applicable. The percentages should sum to 100%).

[1] Agriculture (U.S.A.) ..... |_|_|_|%
[2] Industry, commerce, government (U.S.A.) ..... |_|_|_|%
[3] Home, garden (U.S.A.) ..... |_|_|_|%
[4] Export (Outside U.S.A.) ..... |_|_|_|%
[5] Other markets (SPECIFY) ..... |_|_|_|%

Total ..... 1 0 0 %

2-L. Facility Operations

Report the operational information listed below for calendar year 1986. (Enter zero if the category is not applicable).

[1] The number of days the entire facility was in operation ..... |_|_|_|
[2] The number of days part or all of the facility manufactured pesticide chemicals ..... |_|_|_|
[3] The number of days part or all of the facility formulated/packaged pesticide chemicals ..... |_|_|_|

2-M. Employee Information

In lines [1] through [4], report the total employee hours worked at this facility in the months of January 1986, May 1986 and November 1986 in the categories indicated. In lines [5] and [6], enter the average number of shifts run in the entire facility in a week, and the average number of hours per shift for the months of January 1986, May 1986 and November 1986.

	January 1986	May 1986	November 1986
[1] Total employee hours in pesticide chemicals production			
[2] Total employee hours in pesticide formulating and packaging			
[3] Total employee hours in other production			
[4] Total employee hours in non-production			
[5] Average number of shifts run in the entire facility in a week			
[6] Average number of hours per shift in the entire facility			

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2-N. Estimate the liquidation values less closure and post-closure costs of the pesticide production and pesticide formulating/packaging lines at this facility if you were to close them permanently within the next three years. Include the value of fixed assets, working capital and real estate in your calculation of liquidation values. Report the estimates in thousands of dollars and enter zero dollars if the item is not applicable.

Pesticide production lines	($000)
[1] Liquidation value (less closure and post-closure cost)	_____
Closure and post-closure cost	_____
[2] Cost to convert to non-Table 1 pesticide active ingredients or non-pesticide products	_____
Pesticide formulating/packaging lines	
[1] Liquidation value	_____
[2] Cost to convert to non-Table 1 pesticide active ingredients or non-pesticide products	_____

2-O. Did this facility have any property tax assessment for 1986?

YES ..... 1 (CONTINUE)
NO ..... 2 (SKIP TO QUESTION 2R)

2-P. What was the 1986 property tax assessment value of the items listed below? Report the values in thousands of dollars and enter zero if the item listed is not applicable.

State tax assessment value	($000)
[1] Land	_____
[2] Buildings	_____
[3] Equipment and machinery	_____
[4] Total property tax assessment value	_____
Local tax assessment value	
[5] Land	_____
[6] Buildings	_____
[7] Equipment and machinery	_____
[8] Total property tax assessment value	_____

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2-Q. What was the 1986 assessed value of the property expressed as a percentage of market value (1986 level of assessment)? (Enter zero if the item was not applicable).

[1] State assessment percentage ..... |__|__|__|%

[2] Local assessment percentage ..... |__|__|__|%

2-R. Overall, what is the major source of competition for pesticide products produced at this facility in each of the three markets listed below?

The same products means competing products containing identical or nearly identical pesticide active ingredients or percentages of active ingredients but having different trade or brand names. Substitute products means competing products performing the same pesticidal functions but containing different pesticide active ingredients.

Competition	Market		
	Local Regional	National	International
[1] Domestic producers of the same products	☐	☐	☐
[2] Foreign producers of the same products	☐	☐	☐
[3] Domestic producers of the substitute products	☐	☐	☐
[4] Foreign producers of the substitute products	☐	☐	☐
[5] No competition	☐	☐	☐
[6] No market share	☐	☐	☐

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Comments for Section 2. Reference entries by question number.

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SECTION 3: FACILITY CONTACT

Enter the name, title, telephone number and address (if different from the facility mailing address) of the facility representative to be contacted with questions regarding your responses to **Part B**:

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Name (First and Last)

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Title

|_|_|_| - |_|_|_| - |_|_|_|_|
Telephone Number

Address (if different from facility mailing address):

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Firm or Facility Name

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
Street or P.O. Box

|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|_|
City or Town | State | Zip Code

CERTIFICATION: The information provided in **Part B** of the questionnaire, as well as that provided in all others, must be certified by having the responsible individual for your facility complete and sign the Certification Statement Item 6 on page 3 of this questionnaire.

BILLING CODE 6560-50-C

Send comments regarding the burden estimates, or any other aspects of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460

and

Timonthy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20503, [Telephone (202) 395-3084]

Date: October 24, 1988.

David Schwartz,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-25195 Filed 10-31-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00269; FRL 3470-2]

FIFRA Scientific Advisory Panel Subpanel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) Subpanel to review a set of scientific issues being considered by the Agency in connection with a proposed rule under 40 CFR Part 172 to amend its experimental use permit (EUP) regulations for pesticides. The proposed rule clarifies the circumstances under which an EUP is required for small scale field testing of genetically microbial pesticides.

DATE: Tuesday, November 22, 1988, from 9:00 p.m. to 2:00 p.m.

ADDRESSES: The meeting will be held at: U.S. Environmental Protection Agency, Room 1112, Cyrstal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By Mail:

Robert B. Jaeger, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-769C), 401 M Street SW., Washington, DC 20460

Office location and phone number: Rm. 816G, Crystal Mall, Building No. 2, Arlington, VA, (703-557-4369).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is:

Review of the scientific issues being considered by the Agency on a proposed regulation amending the Agency's Experimental Use Permit (EUP) for pesticides to clarify the circumstances under which an EUP is presumed not to be required and to specify that the presumption is based upon risk. The Agency also proposed to require notification before initiation of any small-scale testing of nonindigenous and genetically altered microbial pesticides. However, notification to the Agency would not be required for tests involving certain of these microorganisms if the test has been approved by an Environmental Biosafety Committee (EBC). In addition, tests involving nonindigenous microorganisms approved by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture are excluded from the notification requirement. For notifications reviewed by the Agency, a determination may be made as to whether an experimental use permit will be required. This notification scheme would implement provisions of the Agency's policy statement of June 26, 1986, (51 FR 23302) and is intended to provide sufficient oversight of the early testing of these microorganisms to mitigate any adverse human or environmental effects.

The Agency has convened a Subpanel of the SAP to review the scientific issues on the proposed rule. The Subpanel will be chaired by Dr. James Tiedje, a member of the SAP. Disciplines of the Subpanel will include expertise in microbiology, entomology molecular biology, human pathology, plan pathology, and soil science.

Copies of documents relating to the item listed above, may be obtained by contacting:

Information Services Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 240, Crystal Mall No. 2, Arlington, VA, 703-557-2805

Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Subpanel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that the time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the Chairman of the Subpanel to present oral statements at the meeting. There is no limit on written comments for consideration by the Subpanel, but oral statements before the Subpanel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Rm. 236 at the address given, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Subpanel. Persons wishing to make oral/written statements should notify the Executive Secretary and submit 10 copies of written comments and oral written testimony no later than November 15, 1988, in order to ensure appropriate consideration by the Subpanel.

Dated: October 25, 1988.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 88-25197 Filed 10-31-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00095; FRL-3469-9]

Toxics Release Inventory; Open Meeting on Magnetic Media Submissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a meeting to discuss magnetic media submissions of data under section 313 of the Emergency Planning and Community-Right-to-Know Act of 1986 (otherwise known as Title III of the Superfund Amendments and Reauthorization Act of 1986). For submissions made on or before July 1, 1988, for emissions occuring during calendar year 1987, EPA allowed the submission of data to satisfy the reporting requirements under 40 CFR Part 372 in a magnetic media format. Because of the success of that effort, EPA would like to meet with all interested persons to consider ways to increase the number of facilities that choose this means to satisfy their reporting requirements.

DATES: The meeting will be held on Thrusday, November 10, 1988, starting at 12:30 p.m., and ending at approximately 2 p.m.

ADDRESS: The meeting will be held in: Room 542 East Tower, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Steven D. Newburg-Rinn, Chief, Public Data Branch, Office of Toxic Substances (TS–793), 401 M St., SW., Washington, DC 20460, (202–382–3757).

SUPPLEMENTARY INFORMATION: Attendance by the public will be limited to available space. The Public Data Branch will provide summaries of the meeting at a later date. In order to insure that adequate space is available, persons planning to attend should notify the undersigned of their intention to do so no later than 12:00 noon on November 4, 1988.

Dated: October 25, 1988.

Steven D. Newburg-Rinn,

Acting Director, Information Management Division, Office of Pesticides and Toxic Substances.

[FR Doc. 88–25196 Filed 10–31–88; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK OF THE UNITED STATES

Advisory Committee of the Export-Import Bank of the United States; Meeting

SUMMARY: The Advisoy Committee was established by Pub. L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

Time and Place: Tuesdday, November 15, 1988 from 9:30 a.m. to 12 noon. The meeting will be held in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda: The meeting agenda will include a discussion of the following topics: Financial Report, Lundine Discussion, Mixed Credit Status, State/City Report, Financial Institution Subcommitte, and other topics.

Public Participation: The meeting will be open to public participation; and the last 20 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, Room 935, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566–8871, not later than November 14, 1988. If any person wishes auxiliary aids (such as a language interpreter) or other special accommodations, please contact prior to November 10, 1988 the Office of the Secretary, Room 935, 811 Vermont Avenue, NW., Washington, DC 20571, Voice : (202) 566–8871 or TDD: (202) 535–3913.

FURTHER INFORMATION: For further information, contact Joan P. Harris, Room 935, 811 Vermont Avnue, NW., Washington, DC 20571 (202) 566–8871.

Joan P. Harris,

Corporate Secretary.

[FR Doc. 88–25282 Filed 10–31–88; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL HOME LOAN BANK BOARD

[No. 88–1157]

General Recordkeeping by Savings and Loan Associations

Date: October 26, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted for extension, without revision, an information collection request, "General Recordkeeping by Savings and Loan Associations" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This information is required by Bank Board examiners to determine whether institutions are being operated safely, soundly, and in regulatory compliance. The Board estimates that it takes an average of 218 hours per institution per year for recordkeeping purposes.

DATES: Comments on the information collection request are welcome and should be received on or before November 16, 1988.

ADDRESS: Comments regarding the paperwork-burden aspects of the request should be direct to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection requests and supporting documentation are obtainable at the Board address given below: Director, Information Services Division, Office of Secretariat, Federal Home Loan Bank Board, 801 17th Street, NW., Washington, DC 20552. Phone: 202–653–2751.

FOR FURTHER INFORMATION CONTACT: Francis Raue, Office of Regulatory Activities, 202–331–4586, Federal Home Loan Bank Board, 801 17th Street, NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88–25202 Filed 10–31–88; 8:45 am]

BILLING CODE 6720–01–M

Capitol Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(1) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Capitol Federal Savings Bank, Oklahoma City, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88–25203 Filed 10–31–88; 8:45 am]

BILLING CODE 6720–01–M

Champion Savings Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Champion Savings Association, Houston, Texas, on September 23, 1988.

Dated: September 23, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88–25204 Filed 10–31–88; 8:45 am]

BILLING CODE 6720–01–M

Delta Savings Association of Texas, Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed

the Federal Savings and Loan Insurance Corporation as sole receiver for Delta Savings Association of Texas, Alvin, Texas, on September 30, 1988.

Dated: September 30, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25205 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Austin; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for First Federal Savings and Loan Association of Austin, Austin, Texas, on September 30, 1988.

Dated: September 30, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25206 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Elk City; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for First Federal Savings and Loan Association of Elk City, Elk City, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25207 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

First Oklahoma Savings Bank, FA: Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for First Oklahoma Savings Bank, FA, Tulsa, Oklahoma, August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25208 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

Frontier Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Frontier Federal Savings and Loan Association, Ponca City, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25209 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

Guaranty Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Guaranty Federal Savings and Loan Association of Dallas, Texas, on September 30, 1988.

Dated: September 30, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25210 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

Heritage Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Heritage Savings and Loan Association, Elk City, Oklahoma on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25211 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

Home Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. § 1464(d)(6)(A), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Home Savings and Loan Association, FA, Bartlesville, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25212 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

Home Savings Bank, FA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Home Savings Bank, FA, Lawton, Oklahoma on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88-25213 Filed 10-31-88; 8:45 am]

BILLING CODE 6720-01-M

Kingfisher Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Kingfisher Federal Savings and Loan Association, Kingfisher, Oklahoma on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25214 Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

Midamerica Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Midamerica Federal Savings and Loan Association, Tulsa, Oklahoma on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25215 Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

Mutual Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Mutual Federal Savings and Loan Association, Oklahoma City, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25216, Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

Peoples Federal Savings and Loan Association of Ardmore; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Peoples Federal Savings and Loan Association of Ardmore, Ardmore, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25217, Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

Phoenix Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Phoenix Federal Savings and Loan Association, Muskogee, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25218, Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

Sunbelt Savings; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Sunbelt Savings, A Federal Savings and Loan Association, Watonga, Oklahoma, on August 31, 1988.

Dated: October 26, 1988.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25219, Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-747; FHLBB Nos. 3365 and 2467]

Cheltenham Federal Savings and Loan Association and North East Federal Savings and Loan Association; Final Action; Approval of Conversion Application

Dated: October 26, 1988.

Notice is hereby given that on October 11, 1988, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the applications of Cheltenham Federal Savings and Loan Association, Philadelphia, Pennsylvania, (FHLBB No. 3365) and North East Federal Savings and Loan Association, Southampton, Pennsylvania, (FHLBB No. 2467) for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Pittsburgh, One Riverfront Center, Twenty Stanwix Street, Pittsburgh, Pennsylvania 15222-4893.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25220 Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-748; FHLBB Nos. 2466]

Great Northwest Federal Savings and Loan Association; Final Action; Approval of Conversion Application

Dated: October 26, 1988.

Notice is hereby given that on October 18, 1988, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the applications of Great Northwest Federal Savings and Loan Association, Bremerton, Washington for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Seattle, 1501 4th Avenue, 19th Floor, Seattle, Washington 98101-1693.

By the Federal Home Loan Bank Board.
John F. Ghizzoni,
Assistant Secretary.
[FR Doc. 88-25221 Filed 10-31-88; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties

may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200169.
Title: Seagate Corporation Terminal Agreement.
Parties: Seagate Corporation, Delaware River Stevedore, Inc. (DRS).
Synopsis: The agreement provides DRS a license to use Piers 82–84 South at the Port of Philadelphia for the discharge, transfer, consolidation and storage of waterborne cargo, and for the docking and berthing of ocean going vessels.

By Order of the Federal Maritime Commission.

Dated: October 27, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–25256 Filed 10–31–88; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Dorothy Cornwall et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 15, 1988.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dorothy E. Cornwall,* to increase her ownership percentage by 22.9 percent as a result of a stock redemption; James A. Wick, Kevin J. Wick, Mark D. Wick, Mary K. Wick, Patrick A. Wick, and Paul D. Wick, to each acquire an additional 6.0 percent of the voting shares of Turtle Bancshares, Incorporated, Turtle Lake, Wisconsin, and thereby indirectedly acquire Bank of Turtle Lake, Turtle Lake, Wisconsin.

2. **Duane S. Amundson** and E.J. Amundson, Henning, Minnesota; to acquire 28.86 percent of the voting shares of Culbertson Ban Corp, Culbertson, Montana, and thereby indirectly acquire Culbertson State Bank, Culbertson, Montana.

Board of Governor of the Federal Reserve System, October 26, 1988.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 88–25148 Filed 10–31–88; 8:45 am]

BILLING CODE 6210–01–M

Fairfield County Bancorp, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governor. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 21, 1988.

A. **Federal Reserve Bank of New York** (Willian L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Fairfield County Bancorp, Inc.,* Stamford, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Stamford, Stamford, Connecticut.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers State Bancorp,* Union City, Ohio; to acquire 100 percent of the voting shares of Farmers State Bank, Losantville, Indiana.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Community Financial Corporation,* Harbor Beach, Michigan; to acquire 100 percent of the voting shares of The Peoples State Bank of Caro, Michigan, Caro, Michigan.

2. *First Colonial Bankshares Corporation,* Chicago, Illinois; to acqurie 96.14 percent of the voting shares of DuPage County Bank of Glendale Heights, Glendale Heights, Illinois.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bainum Bancorp,* Glenwood, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Bank of Glenwood, Glenwood, Arkansas.

2. *Old National Bancorp,* Evansville, Indiana; to acquire 100 percent of the voting shares of First Service Bancshares, Inc., Greenville, Kentucky, and thereby indirectly acquire The First State Bank of Greenville, Kentucky, Inc., Greenville, Kentucky.

Board of Governor of the Federal Reserve System, October 26, 1988.

James McAfee,

Associate Secretary of the Board

[FR Doc. 88–25149 Filed 10–31–88; 8:45 am]

BILLING CODE 6210–01–M

First Denham Bancshares, Inc., et al., Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 2125.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of RegulationY as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 21, 1988.

A. **Federal Reserve Bank of Altanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Denham Bancshares, Inc.*, Denham Springs, Louisiana; to engage *de novo* through First Advantage Insurance, Inc., Springfield, Louisiana, and Walker, Louisiana, in insurance activities, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. Specifically, to act as an agent for insurance companies in soliciting, procuring, receiving and forwarding applications for property and casualty, life and accident and health, credit life, and all kinds of insurance, together with the collection of premiums and the doing of such other business as may be designated to agents by insurance companies and to conduct a general insurance agency and insurance brokerage business.

2. *Public Bank Corporation*, St. Cloud, Florida; to engage *de novo* through Public Mortgage Corporation, St. Cloud, Florida, in mortgage banking activities, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Tennessee National Corporation*, Memphis, Tennessee; to engage *de novo* through FTB Futures Corporation, Memphis, Tennessee; in providing investment advice, including counsel, publications, written analyses and reports, with respect to the purchase and sale of futures contracts and options on futures for the commodities and instruments pursuant to § 225.25(b)(19)(i) and (ii) of the Board's Regulation Y. Corporation will not trade for its own account, and it will limit its advice to financial institutions and other financially sophisticated customers that have significant dealings or holdings in the underlying commodities, securities, or instruments.

2. *Mid-America Bancorp*, Louisville, Kentucky; to engage *de novo* through Eton Life Insurance Company, Louisville, Kentucky; in investing in public obligations through direct loans to municipalities pursuant to § 225.25(b)(1)(iv) of the Board's Regulation Y.

C. **Federal Reserve Bank of Kansas City** (Thomas Mc. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kansas National Bancorporation, Inc.*, Goodland, Kansas; to engage *de novo* in providing management consulting to nonaffiliated depository organizations and in providing data processing activities, pursuant to § 225.25(b)(11) and 225.25(b)(7) of the Board's Regulation Y.

2. *United Banks of Colorado, Inc.*, Denver, Colorado; to engage *de novo* in insurance and data processing activities through a partnership joint venture between its 4(c)(8)(G) insurance subsidiary: United Banks Insurance Services, Inc., and an unaffiliated company Thompson and Company Insurance Services, Inc. Pasadena, California, pursuant to § 225.25(b)(8)(vii) and 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-25150 Filed 10-31-88; 8:45 am]

BILLING CODE 6210-01-M

First Tennessee National Corp., et al., Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 21, 1988.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Tennessee National Corporation*, Memphis, Tennessee; to acquire Check Consultants, Inc., Memphis, Tennessee, and thereby engage in check processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. Applicant intends for Company to continue doing business on a national and international basis.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to acquire through its wholly-owned subsidiary, Norwest Insurance, Inc., assets of Hopkins Insurance Agency, Inc., which has its office located in Des Moines, Iowa, where it is engaged in a general insurance agency business. Norwest Corporation and its subsidiaries are authorized to engage in insurance agency activities pursuant to section 4(c)(8)(G) of the Bank Holding Company Act of 1956, as amended, and § 225.25(b)(8) of the Board's Regulation Y. Upon consummation of this transaction, Norwest Insurance, Inc.,

will engage in such activities at its existing office in Des Moines, Iowa, as well as at the current location of Hopkins Insurance Agency, Inc., and will continue to serve Des Moines, and nearby communities. Comments on this application must be received by November 15, 1988.

Board of Governors of the Federal Reserve System, October 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-25151 Filed 10-31-88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Buford and Ruby Thompson et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 18, 1988.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Buford Thompson and Ruby Thompson*, Hartsville, Tennessee, to acquire control over additional shares. The largest shareholder is transferring 3,200 shares to Notificants, who will receive 1,600 each. As a result of these transfers, Notificants' total ownership will increase to 23.7 percent, and they will become the largest shareholders.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *John C. Bumgarner, Jr.*, Tulsa, Oklahoma; to acquire an additional 14.05 percent of the voting shares of Western National Bancorporation of Tulsa, Tulsa, Oklahoma, and thereby indirectly acquire Western National Bank of Tulsa, Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, October 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-25152 Filed 10-31-88; 8:45 am]

BILLING CODE 6210-01-M

Westpac Banking Corp., Sydney, Australia; Proposal To Underwrite and Deal in Certain Securities to a Limited Extent

Westpac Banking Corporation, Sydney, Australia ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a), of the Board's Regulation Y (12 CFR 225.23(a)), for permission to engage through Westpac Pollock Government Securities Inc., New York, New York ("Company"), in the activity of underwriting and dealing in, to a limited degree, commercial paper, municipal revenue bonds (including "public ownership" industrial development bonds), 1-4 family mortgage-related securities and consumer-receivable-related securities ("ineligible securities"). These securities are eligible for purchase by banks for their own account but not eligible for banks to underwrite and deal in.

Company is currently authorized to engage in underwriting and dealing in U.S. government securities pursuant to § 225.25(b)(16).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order of regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant has applied to underwrite and deal in ineligible securities in accordance with limitations similar to those set forth in the Board's Orders approving those activities for a number of bank holding companies. *See, e.g., Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987).

The application presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Applicant states that, consistent with section 20, 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.

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be sumitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 21, 1988.

Board of Governors of the Federal Reserve System. October 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-25147 Filed 10-31-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 88M-0337]

G.T. Laboratories, Inc.; Premarket Approval Of Fluorex™ 700 (Flusilfocon A) Rigid Gas Permeable Contact Lens (Clear And Tinted)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by G.T. Laboratories, Inc., Chicago, IL, for premarket approval, under the Medical Device Amendments of 1976, of the spherical Fluorex ™ 700 (flusilfocon A) Rigid Gas Permeable Contact Lens for daily wear (clear and tinted). After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 15, 1988, of the approval of the application.

DATE: Petitions for administrative review by December 1, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On March 21, 1988, G.T. Laboratories, Inc., Chicago, IL 60602, submitted to CDRH an application for premarket approval of the Fluorex™ 700 (flusilfocon A) Rigid

Gas Permeable Contact Lens (clear and tinted). The spherical lens is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic and have an astigmatism of 1.5 diopters (D) or less that does not interfere with visual acuity. The lens ranges in power from −20.00 D to +12.00 D and is to be disinfected using the chemical lens care system specified in the approved labeling. The tinted lens contains the color additive D&C Green No. 6 in accordance with the color additive listing provisions of 21 CFR 74.3206.

On June 21, 1988, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 15, 1988, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the approved contact lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The retrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Additionally, the labeling of solutions needs to be updated periodically to refer to new lenses that CDRH approves for use with approved solutions. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity For Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 1, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office 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. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 21, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88–25145 Filed 10–31–88; 8:45 am]

BILLING CODE 4160–01–M

Office of Human Development Services

Administration for Native Americans

AGENCY: Administration for Native Americans, Office of Human Development Services, Department of Health and Human Services.

ACTION: Notice of description of panel review process for review of applications.

SUMMARY: Pursuant to section 806(a) of the Native American Programs Act of 1974, as amended, the Administration for Native Americans (ANA) herein describes the formal panel review process that is to be used for evaluating applications for financial assistance under sections 803 and 805 of the Act and determining the relative merits of the projects for which assistance is requested.

DATES: The deadline for receipt of comments is January 3, 1989.

ADDRESS: Send comments on this notice to Martin Koenig, Director, Planning and Support Division, Administration for Native Americans, 3rd Floor Corridor F, 200 Independence Ave., SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Martin Koenig, (202) 245–7730.

SUPPLEMENTARY INFORMATION: Sections 806 (a)(1) and (2) of the Native American Programs Act, (the Act), as amended by Pub. L. 100–175, require the Administration for Native Americans (ANA) to establish a formal panel review process for the purpose of reviewing applications for financial assistance and to exercise Native American preference in panelist selection. This notice serves to fulfill those requirements.

Review Process

ANA's formal panel review process consists of the following steps:

I. Publication of Program Announcement

For each fiscal year, ANA will publish program announcements in the **Federal Register.** The announcements will solicit grant applications for projects which promote self-sufficiency for Indian Tribes and American Indians, Native Hawaiians, and Native American Pacific Islander groups in accordance with sections 803 and 805 of the Act. They also will contain criteria for their acceptance and evaluation. The announcement for section 803 of the Act will include multiple dates (closing dates) for receipt and consideration of applications.

Research, demonstration, and evaluation applications which are funded under section 805 of the Act are sometimes solicited in a different **Federal Register** announcement and sometimes in combination with similar announcements from other program

components of the Office of Human Development Services.

II. Receipt and Screening

ANA receives applications and ANA staff screen them against the eligibility criteria specified in the program announcment, including adherence to administrative requirements such as whether the application is filed by the closing date and whether the application package is complete. An applicant is ineligible for funding if the organization has been identified for debarment by the Department of Health and Human Services. Applications meeting the eligibility criteria are distributed to independent panels for rating. Applications which ANA staff have determined do not meet the eligibility criteria will not be forwarded to a panel and the applicants will be notified accordingly.

III. Panel Formation and Panel Reviews

Review panels are composed of several persons who have knowledge of the experience in Native American affairs. The panel members are selected by the Commissioner of ANA from a list of individuals who are qualified and have indicated an interest in serving in this capacity.

Pursuant to section 806(a)(2) of the Act, ANA gives preference to American Indians, Native Hawaiians and other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives in making appointments to these panels. Persons interested in serving on a review panel should contact Rene Gross, Administration for Native Americans, 3rd Floor Corridor F, 200 Independence Ave., SW., Washington, DC 20201, (202) 245–7730.

IV. Panel Review Process

A number of panels are formed depending on the number of applications received in response to the specific closing date. Each panel may review between five an ten applications.

ANA sends written guidance to the panelists prior to their reviews. This guidance generally includes: The program announcement; the Grant Application Review Form; the Application Reviewer Work Agreement; the agenda for Panel Review Week; and listings of the responsibilities of panelists, panel chairpersons, and ANA liaisons during the review process.

Panelists also receive additional training materials and a briefing immediately before beginning their review of applications. Panelists score the applications strictly on the information included in the applications and the guidance in the program announcement. Each panelist scores the applications assigned to him or her and prepares documentation supporting the scores. The panel, as a group, then develops a summary score and a summary of comments on each application being considered by the panel. All applications received by all panels are then listed in descending score order.

V. Commissioner's Decision

The Commissioner of ANA reviews each application, including all supporting material submitted by the applicant; the review panels' scores and comments on each criterion; and ANA staff comments beginning with the application which received the highest score from the panels.

Under authority delegated from the Secretary of the Department of Health and Human Services, the Commissioner decides whether an application is to be fully funded, partially funded, or not funded. In making the decision, the Commissioner considers the views of the panel and other relevant factors not available to the panel, e.g., fiscal or management problems of the applicant, duplication of projects previously funded, or failure to secure necessary additional funding from other sources. The Commissioner's decisions are final. A compilation of reviewers' comments on the application is sent to each unsuccessful applicant.

(Catalog of Federal Domestic Assistance Number 13.612 Native American Programs)

Dated: October 6, 1988.

Willima Lynn Engles,

Commissioner, Administration for Native Americans.

Approved: October 26, 1988.

Sydney Olson,

Assistant Secretary for Human Development Services.

[FR Doc. 88–25241 Filed 10–31–88; 8:45 am]

BILLING CODE 4130–01–M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on November 14, 1988, from 8:00 a.m. to approximately 5 p.m. at the Stuffer Concourse Hotel, 2300 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Excutive Director, National Digestive Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: October 24, 1984.

William F. Raub,

Deputy Director, NIH.

[FR Doc. 88–25255 Filed 10–31–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 53 FR 27567, July 21, 1988) is amended to reflect the following changes in the Office of Director, NIH: (1) Revise the functional statement of the Division of Program Analysis (HNA62) and retitle it to the Division of Planning and Evaluation (HNA62); (2) revise the functional statement of the Division of Legislative Analysis (HNA64); (3) establish the Division of Science Policy (HNA63).

Section HN–B, Organization and Functions is amended as follows: (1) Under the heading *Division of Program Analysis (HNA62), delete the title and functional statement in its entirety and substitute the following:*

Division of Planning and Evaluation (HNA62)

(1) Plans and conducts a comprehensive program of policy research, evaluation, economic, and resource analyses, and program planning activities of NIH; (2) advises the Associate Director for Science Policy and Legislation on program planning issues and policies, and on evaluation of the programs of the operating organizations of NIH; and (3) carriers out staff functions relating to program development, policy research, economic and resource analysis, and program evaluation.

(2) Under the heading *Division of Legislative Analysis (HNA64)*, delete the functional statement in its entirety and substitute the following:

Division of Legislative Analysis (HNA64)

(1) Advises the Director, NIH, and staff and provides leadership and direction for NIH legislative analysis, development, and liaison; (2) identifies, analyzes, and reports on legislative developments relevant to NIH programs and activities; (3) assesses the need for and proposes changes in the statutory base of NIH activities; (4) plans and develops new legislative proposals; (5) coordinates and controls NIH Congressional communications; (6) provides coordination on NIH legislative matters with the Office of the Assistant Secretary for Health, the Department, the Congress, Federal and non-Federal national and international organizations concerned with health, and other bodies; (7) coordinates preparation of testimony or statements for OD/NIH before Congressional committees or other groups; and (8) develops special reports, staff documents, or other studies concerning NIH interests, activities, and relationships.

(3) After the statement for the newly retitled *Division of Planning and Evaluation (HNA62)*, insert the following:

Division of Science Policy (HNA63)

(1) Plans, directs, coordinates, and conducts a comprehensive program of policy analysis and development designed to meet the needs of the Director, NIH, in making policy and program decisions affecting the size, scope, direction, and effectiveness of NIH programs; (2) manages the Advisory Committee to the Director, NIH (ACD), and the NIH Recombinant DNA Advisory Committee (RAC); (3) organizes and conducts special *ad hoc* public forums on selected aspects of science and public policy designed to broaden participation of the scientific community in science policy decisions; (4) identifies emerging policy issues; (5) implements NIH policies and procedures for the safe conduct of recombinant DNA activities; (6) coordinates activities of the Division with those of the Division of Planning and Evaluation and the Division of Legislative Analysis on all matters related to science policy analysis, formulation, and implementation; and (7) provides liaison with Federal and non-Federal national and international organizations concerned with health.

Date: October 18, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88-25187 Filed 10-31-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permits; Dave Tesch

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-731159

Applicant: Dave Tesch, Fort Wayne, IN.

The applicant requests a permit to export and re-import one female Asian elephant (*Elephas maximus*) previously imported from the wild n 1951. This elephant is to be exported and re-imported for the purpose of conservation education. In the future, the applicant will export and re-import this animal for the same purpose.

Documents and other information submitted with this application is available to the public during normal business hours (7:45 a.m. to 4:15 p.m.), Room 403, 1375 K Street NW., Washington, DC 20005, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 27329, Washington, DC 20038-7329.

Interested persons may comment on this application 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.

Dated: October 26, 1988.

R.K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 88-25141 Filed 10-31-88; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Indian Tribes Performing Law Enforcement Functions

October 19, 1988.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Withdrawal of Notice of determination.

SUMMARY: This notice withdraws the notice of determination published in the Federal Register, Volume 53, Number 170, Thursday, September 1, 1988, pages 33867-33877 which was premature and is subject to further review.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: James P. Donovan, Chief, Division of Law Enforcement Services, Bureau of Indian Affairs, Mail Stop 1364 MIB, 18th & C Street NW., Washington, DC 20245.

W.P. Ragsdale,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 88-25258 Filed 10-31-88; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CO-010-09-4410-08]

Availability of the Revised Proposed Little Snake Resource Management Plan; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the revised proposed Little Snake Resource Management Plan.

SUMMARY: Pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), the Bureau of Land Management has prepared the Revised Proposed Little Snake Resource Management Plan (RMP) for the public lands in the Little Snake Resource Area in northwest Colorado.

DATE: Protests and comments must be received in writing by December 5, 1988.

ADDRESS: Protests should be sent to: Director (760), Bureau of Land Management, Premier Building, Room 909, 1725 Eye Street, Washington, DC 20240. Comments should be sent to: Duane Johnson, Project Manager, Little Snake Resource Area, 1280 Industrial Avenue, Craig, Colorado 81625.

FOR FURTHER INFORMATION CONTACT: Duane Johnson, Project Manager, Bureau of Land Management, Little Snake Resource Area, 1280 Industrial Avenue, Craig, Colorado 81625. Telephone (303) 824-4441.

SUPPLEMENTARY INFORMATION: The Revised Proposed Little Snake RMP incorporates changes and revisions made as a result of protests filed with the Director, Bureau of Land Management, in November 1986. The changes involve text revisions made to clarify management prescriptions. Some format changes also have been made to eliminate confusion, primarily in relation to the display of management

prescriptions including those for proposed management of federal minerals underlying nonfederal surface areas within the resource area. The clarifications and edits made in response to the plan protests have not changed the plan decisions set forth in the proposed plan published in 1986 and repeated herein. Oil and gas leasing will be further addressed in a document to follow approval of this plan.

Also, any person (who participated in the Little Snake planning process and has an interest which is or may be adversely affected by the plan approval) believing the clarifications and edits made in this document do change the proposed decisions, may protest to the Director, BLM. Any protest filed with the Director must show what decision(s) the protesting party believes was changed and how it was changed. Other aspects of the proposed plan are not opened to further protest, given the previous protest opportunity. Any protest filed must be in accord with the procedures set forth at 43 CFR 1610.5.2.

Availability: Single copies of the Revised Proposed RMP may be obtained from the address listed above, or from: Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

Tom Walker,

Associate State Director.

Date: October 21, 1988.

[FR Doc. 88-25177 Filed 10-31-88; 8:45 am]

BILLING CODE 4310-JB-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given Hughes-Denny Offshore Exploration, Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5604 and 5605, Blocks 144 and 145, respectively, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on October 19, 1988. Comments must be received within 15 days of the publication date of this Notice of 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Managment Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the COCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

October 24, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-25168 Filed 10-31-88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 22, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by November 16, 1988.

Patrick Andrus,

Acting Chief of Registration, National Register.

CONNECTICUT

New Haven County

Baldwin, Timothy, House (Colonial Houses of Branford TR), 186 Damascus Rd., Branford, 88002633

Baldwin, Zaccheus, House (Colonial Houses of Branford TR), 154 Damascus Rd., Branford, 88002631

Beach, Samuel, House (Colonial Houses of Branford TR), 94 E. Main St., Branford, 88002634

Blackstone House (Colonial Houses of Branford TR), 37 First Ave., Branford, 88002639

Bradley, Timothy, House (Colonial Houses of Branford TR), 12 Bradley St., Branford, 88002630

Frisbie, Edward, House (Colonial Houses of Branford TR), 699 E. Main St., Branford, 88002638

Harrison, Thomas, House (Colonial Houses of Branford TR), 23 N. Harbor St., Branford, 88002644

Hoadley, Isaac, House (Colonial Houses of Branford TR), 9 Totoket Rd., Branford, 88002647

Hoadley, John, House (Colonial Houses of Branford TR), 213 Leetes Island Rd., Branford, 88002674

Hoadley, Orrin, House (Colonial Houses of Branford TR), 15 Sunset Hill Rd., Branford, 88002646

House at 161 Damascus Road (Colonial Houses of Branford TR), 161 Damascus Rd., Branford, 8802632

House at 29 Flat Rock Road (Colonial Houses of Branford TR), 29 Flat Rock Rd., Branford, 88002640

Howd, Eliphalet, House (Colonial Houses of Branford TR), 675 E. Main St., Branford, 88002637

Norton House (Colonial Houses of Branford TR), 200 Pine Orchard Rd., Branford, 88002645

Palmer, Hezekiah, House (Colonial Houses of Branford TR), 340—408 Leetes Island Rd., Branford, 88002641

Palmer, Isaac, House (Colonial Houses of Branford TR), 736—756 Main St., Branford, 88002643

Rogers, John, House (Colonial Houses of Branford TR), 690 Leetes Island Rd., Branford, 88002642
Tyler, John, House (Colonial Houses of Branford TR), 242—250 E. Main St., Branford, 88002635
Tyler, Solomon, House (Colonial Houses of Branford TR), 260—268 E. Main St., Branford, 88002636

Windham County

Ashford Academy, Pitts Rd., Ashford, 88002649
Church Farm, 396 Mansfield Rd., Ashford, 88002650

DELAWARE

New Castle County

Chambers House, Hopkins Rd. and Creek Rd., Newark vicinity, 88002659

IOWA

Dubuque County

Dubuque Trading Post—Village of Kettle Chief Archeological District (Mines of Spain Archeological MPS), Address Restricted, Dubuque vicinity, 88002665
Dubuque, Julien, Monument (Mines of Spain Archeological MPS), Confluence of Mississippi River and Catfish Creek in Mines of Spain State Recreation Area, Dubuque vicinity, 88002662
Mines of Spain Area Rural Community Archeological District (Mines of Spain Archeological MPS), Address Restricted, Dubuque vicinity, 88002663
Mines of Spain Lead Mining Community Archeological District (Mines of Spain Archeological MPS), Address Restricted, Dubuque vicinity, 88002664
Mines of Spain Prehistoric District (Mines of Spain Archeological MPS), Address Restricted, Dubuque vicinity, 88002666

KENTUCKY

Jefferson County

Drumanard (Louisville and Jefferson County MPS), 6401 Wolf Ben Branch Rd., Louisville vicinity, 88002654
Gardencourt Historic District (Louisville and Jefferson County MPS), 1010 Alta Vista Rd., Louisville, 88002653

LOUISIANA

Ascension Parish

St. Joseph's School, LA 75 and 44, Brunside, 88002651

De Soto Parish

Swearingen House, LA 5, Keachi, 88002658

Madison Parish

Hermione Plantation House, Parish Rd. 3030, Tallulah, 88002652

NORTH CAROLINA

Henderson County

Mills River Chapel, SR 1328, 0.7 mi. N of jct. with NC 280, Mills River vicinity, 88002660

OREGON

Klamath County

Comfort Station No. 68 (Crater Lake National Park MRA), Rim Dr., near Rim Village Campground, Fort Klamath vicinity, 88002624
Comfort Station No. 72 (Crater Lake National Park MRA), Rim Dr., in Rim Village Campground, Fort Klamath vicinity, 88002625
Munson Valley Historic District (Crater Lake National Park MRA), Jct. of Crater Lake Hwy. and Rim Dr., Fort Klamath vicinity, 88002622
Sinnott Memorial Building No. 67 (Crater Lake National Park MRA), Rim Dr., near Rim Village Campground, Fort Kalamath vicinity, 88002623
Watchman Lookout Station No. 68 (Crater Lake National Park MRA), Off Rim Dr. on the Watchman, Fort Klamath vicinity, 88002626

PENNSYLVANIA

Bucks County

Palmer, Amos, House, Township Line Rd., Langhorne, 88002661

TENNESSEE

Fayette County

Crisscross Lodge, 10056 Poplar Ave., Collierville vicinity, 88002627

Warren County

Stone—Pennebaker House, 229 Towles Ave., McMinnville, 88002648

VERMONT

Windham County

Bellows Falls Petroglyph Site (VT–WD–8) (Bellows Falls Island MRA), Address Restricted, Bellows Falls, 88002166

WEST VIRGINIA

Jefferson County

Falling Spring—Morgan's Grove, SR 480, Shepherdstown vicinity, 88002670
Glenburnie, CR 16/Ridge Rd., Shenandoah Junction vicinity, 88002668

Mason County

Eastham House, US 35, Point Pleasant vicinity, 88002669

Ohio County

Good, L. S., House, 95 14th St., Wheeling, 88002667

WISCONSIN

Kenosha County

Library Park Historic District, Roughly bounded by 59th St., 7th Ave., 61st St., and 8th Ave., Kenosha, 88002657

The following property erroneously appeared on the October 18, 1988, pending list as being located in Lackawanna County, Pennsylvania. It should read as follows:

NEW YORK

Ontario County

Warner, Oliver, Farmstead, NY 68, Clifton Springs vicinity, 88002189

[FR Doc. 88–25263 Filed 10–31–88; 8:45]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Tuesday, December 13, 1988, at Building 201, Fort Mason, San Francisco, California.

The Advisory Commission was established by Pub. L. 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the soliciation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems, in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Mr. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R.H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The main agenda item will be a presentation of a Staff Report by the staff of the Golden Gate National Recreation Area on the plans for development of the Presidio Bayfront/Crissy Field area in San Francisco. Recommendations for the Crissy Field area were derived from four alternatives under consideration for this San Francisco beachfront site. Each alternative would implement the approved General Management Plan for the Golden Gate National Recreation Area, which recommended restored dunes, natural landscaping, lawn, parking, and visitor amenities, such as restrooms and picnic facilities. The amount and location of parking and the balance between the urban and natural landscapes varies under each alternative. Twenty acres of open space will be created by removal of paving and nonhistoric structures. New and restored landscapes would include dunes, grassland, lawn and a seasonal wetland remininscent of Crissy Field's past as a saltwater marsh. One alternative considers a saltwater lagoon.

The formal presentation of the Crissy Field Bayfront plans were presented at the Golden Gate National Recreation Area Advisory Commission meeting on March 10, 1988. A presentation of broad development plans was made before the GGNRA Advisory Commission on November 10, 1987. Plans for the Golden Gate National Recreation Area portions of Presidio Bayfront/Crissy Field were developed with the assistance of John Northmore Roberts, Landscape Architects and Land Planners, of Berkeley, California, under the auspices of the Golden Gate National Park Association.

Plans for those Presido Bayfront/Crissy Field lands under U.S. Army management were developed by the Directorate of Engineering and Housing at the Presidio of San Francisco. The San Francisco City Planning Commission staff has also participated in the formulation of this plan. The four alternatives were presented to the public at the joint meeting of the Golden Gate National Recreation Area Advisory Commission and San Francisco City Planning Commission on July 7, 1988.

The meeting is open to the public. Persons wishing to receive the Environmental Assessment for the Crissy Field plans or the Staff Report should contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or telephone (415) 556–4484.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript is available after January 6, 1989. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: October 12, 1988.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 88–25262 Filed 10–31–88; 8:45 am]

BILLING CODE 4310-71-M

Bureau of Reclamation

Realty Action; Competitive Sale of Public Land; Arizona

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described land has been indentified for disposal under the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374). The Bureau of Reclamation will accept bids on the following land, and will reject any bids, written or oral, for less than $533,000, the appraised fair market value.

DATE: January 3, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Burgett, Realty Specialist, Bureau of Reclamation, P.O. Box 9980, Phoenix, Arizona 85068, telephone (602) 870–6734, (FTS) 765–1734.

Land Identified for Disposal as Follows

Tract APO–GR–11–56–3

A strip of land 100 feet wide lying southerly and contiguously to Reach 11 of the Granite Reef Aqueduct, Central Arizona Project, westerly of Pima Road and easterly and northerly of Frank Lloyd Wright Boulevard in the southeast quarter of Section 1, Township 3 North, Range 4 East, Gila and Salt River Meridian, City of Scottsdale, Arizona, containing an area of 3.82 acres, more or less. A more complete legal description may be obtained from the local Reclamation office referenced above.

The land will be offered for sale through the competitive bidding process. The sale will be held at the Bureau of Reclamation, Arizona Projects Office, 23636 North Seventh Street, Phoenix, Arizona 85068, on January 3, 1989, at 9:00 a.m., at which time the sealed bids will be opened and oral bids will be accepted. Sealed bids will be received at the foregoing address until close of business January 3, 1989. The Bureau of Reclamation may accept or reject any or all offers, or withdraw any land or interest in land for sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374) or other applicable laws.

The sale of the land is consistent with the Bureau of Reclamation land use planning and it was determined that the public interest would best be served by offering these lands for sale; the parcel listed and platted is offered for sale "as is" and "where is."

Resource clearances consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) requirements have been completed and approved. A land report including categorical exclusion No. APO–87–30 dated October 13, 1987, is available for review at the Bureau of Reclamation, Arizona Projects Office, 23636 North Seventh Street, Phoenix, Arizona 85068.

The deed issued for the parcel sold will be subject to right-of-way for ditches and canals constructed by the authority of the United States in accordance with the Act of August 30, 1890 (26 Stat. 391, 86 U.S.C. 945), and reservations for public road and utility easements identified by the City of Scottsdale and the County of Maricopa. This land sale will be for the surface estate only.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005. Any adverse comments will be evaluated by the Regional Director who may vacate or modify this Notice of Realty Action and issue a final determination. In the absence of any action by the Regional Director, this Notice of Realty Action will become the final determination of the Department of the Interior.

John D. Brown,

Acting Regional Director, Lower Colorado Region, Bureau of Reclamation.

[FR Doc. 88–25155 Filed 10–31–88; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paper Reduction Act (44) U.S.C. Chapter 35 is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275–6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Motor Carrier Quarterly Report Form
OMB Form No.: 3120–0002
Agency Form No.: QFR
Frequency: Quarterly
Respondents: Class I and II Motor Carriers of Property and Household Goods
No. of Respondents: 952
Total Burden Hrs.: 7,615 (average 2 hours per response)
Brief Description of the Need & Proposed Use: Data is used by the Commission to Assess industry growth, sudden changes in carrier

financial stability and to identify changes and trends that may affect the National Transportation Industry.

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Class I and II Motor Carriers of Property and Household Goods
OMB Form No.: 3120–0032
Agency Form No.: M
Frequency: Annually
Respondents: Class I and II Motor Carriers of Property and Household Goods.
No. of Respondents: 2,117
Total Burden Hrs.: 52,925 (average 25 hours per response)
Brief Description of the Need & Proposed Use: Data is used by the Commission to assess industry growth, sudden changes in carrier financial stability and the effect on the transportation system. It is also used for evaluating proposals for changes in ownership and mergers.

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts
OMB Form No.: 3120–0106
Agency Form No.: N/A
Frequency: Quarterly/Annually
Respondents: 2,117
Total Burden Hrs.: 298,497 (average 141 hours per response)
Brief Description of the Need & Proposed Use: The Uniform System of Accounts is the prescribed system that a reporting carrier must follow to account for their financial, operating and equipment transactions and records. Data collected under the USOA is used by the Commission and carriers.

Noreta R. McGee,

Secretary.

[FR Doc. 88–25179 Filed 10–31–88; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Applications To Consolidate, Merge or Acquire Control

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. If the protest includes a request for oral hearing, the request shall meet the requirements of 49 CFR 1182.3 and shall include the required certification. Failure seasonable to oppose will be construed as a waiver of opposition and participation in the proceeding.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicants must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application on a non-complying applicant shall stand denied.

Findings

The findings for these applications are set forth at 49 CFR 1182.6. MC–F–19280, filed Octoer 21, 1988. Jefferson Lines, Inc. (Jefferson)-Merger-Oklahoma Transportation Company (OTC), *et al.* Representative: Elliott Bunce, Suite 1001, 1600 Wilson Blvd., Arlington, VA 22209. Motor common carrier of passengers Jefferson (MC–60325) seeks approval of the merger into it of common carriers of passengers OTC (MC–640), K. G. Lines, Inc. (KG) (MC–30608), MK&O Lines, Inc. (MK&O) (MC–36364), and Midland Lines, Inc. (Midland) (MC–44770), and contract carrier of passengers Jefferson Charters and Tours, Inc. (JC&T) (MC–159459). Jefferson will be the surviving corporation, and all of the merger carriers' authorities will be transferred to it.

Jefferson presently controls KG and OTC, and Midland presently controls MK&O and JC&T. Jefferson and Midland are controlled by noncarrier Jefferson Transportation Group, Inc., which is controlled by noncarrier JTG Acquisition Corporation (JTG). The stock of JTG is owned by Bruck & Co. (Zelle Estate), Mary Susan Zelle Reed, Charles A. Zelle, Michael N. Zelle, and 7 other stockholders, none of whom owns more than 5 percent of the outstanding stock.

OTC holds authority to transport passengers, between specified points in AR, KS, OK, and TX, and passengers, in charter and special operations, between points in the U.S. (except HI), and passengers between specified points in OK. KG holds authority to transport passengers, between specified points in KS, MO, and OK. JC&T holds authority to transport passengers, in charter operations, between points in the U.S. (except HI), under continuing contract(s) with Jefferson Tours and Travel, Inc., a division of MTS Company of Minneapolis, MN, and in charter and special operations, between points in the U.S. (except HI). Midland holds authority to transport passengers, between specified points in MI, MN, ND, SD, and WI, and passengers, in charter and special operations, between points in the U.S. (except HI), beginning and ending at specified points in MN, SD, and WI, and extending to points in the United States (except AK and HI). MK&O holds authority to transport passengers, between specified points in OK, passengers, in charter operations, beginning and ending at specified points in MO and OK and extending to points in the United States (except HI), and passengers, in charter and special operations, between points in the U.S., under continuing contract(s) with Think Snow and Tulsa Ski Club, to Tulsa, OK, Oklahoma City Ski Club, the Ski Haus, Sun and Snow, and Colorado Bound, of Oklahoma City, OK, Al's Tours, of St. Louis, MO, and Presley Tours, of Makanda, IL.

Decided: October 25, 1988.

By the Commission, Motor Carrier Board, Members Hodge, Taylor, and Brown (member Brown not participating).

Noreta R. McGee,

Secretary.

[FR Doc. 88–25181 Filed 10–31–88; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–7 (Sub–No. 114X)]

CMC Real Estate Corp.; Abandonment Exemption; Chicago, IL; Modification of Exemption [1]

The Commission is reopening and modifying the notice of exemption served December 2, 1987 and published in the **Federal Register** on the same date (52 FR 45877) which permitted CMC Real Estate Corporation to abandon a 1.54-mile line of railroad (the Deering Line) between engineering stations 00+00 and 81+56. The modified exemption narrows the scope of the abandonmment to that segment of line between engineering station 23+11 and engineering station 81+56 and deletes from the abandonment the line owned by Soo Line Railroad Company between engineering station 00+00 and engineering station 23+11. Use of this exemption will continue to be

[1] Corrected to reflect a new procedural schedule.

conditioned on appropriate labor protection, as earlier imposed.

The modified exemption will become effective on December 1, 1988. Petitions for stay must be filed November 14, 1988, and petitions for reconsideration must be filed by November 21, 1988.

Send pleadings referring to Docket No. AB–7 (Sub-No. 114X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: John Broadley, Jenner & Block, 21 DuPont Circle, Washington, DC 20036.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc. in Room 2229 at Commission headquarters).

Decided: October 5, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 88–25180 Filed 10–31–88; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Employment Standards Administration

Application of the Employee Polygraph Protection Act of 1988—29 CFR Part 801.
On occasion.
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.
261,000 respondents; 122,310 total hours; 1–30 minutes per response.

The reporting and recordkeeping requirements for employers and polygraph examiners are necessary to insure polygraph examinees receive the protections and rights mandated by the Employee Polygraph Protection Act of 1988.

Singed at Washington, DC this 27th day of October, 1988.

Terry O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 88–25270 Filed 10–31–88; 8:45 am]

BILLING CODE 4510–27–M

LIBRARY OF CONGRESS

American Folklife Center; Board of Trustees Meeting; Postponement

AGENCY: Library of Congress.

ACTION: Postponement of meeting.

SUMMARY: This notice annonces the postponement of a meeting of the Board of Trustees of the American Folklife Center originally scheduled for October 14, 1988. New dates to be announced. Notice of meeting dates is required in accordance with Pub. L. 94–463.

FOR FURTHER INFORMATION CONTACT: Raymond L. Dockstader, Deputy Director, American Folklife Center, Washington, DC 20450. Telephone (202) 287–6590.

Dated: October 19, 1988.

Arthur J. Lieb,

Executive Officer Office of the Librarian, Library of Congress.

[FR Doc. 88–25154 Filed 10–31–88; 8:45 am]

BILLING CODE 1410–01–M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Meeting

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held Tuesday, November 29, 1988. The meeting will be held at the MITRE Corporation, 7525 Colshire Drive, McLean, VA. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.
B. Administrative remarks.
C. Briefings on industry and Government activities.

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692–9274 or write

the Manager, National Communications System, Washington, DC 20305–2010.

Edward R. Faison,

Master Sergeant, USAF.

Steven E. Elsen,

Major, USA.

Terrence N. Danner,

Captain, USN, Assistant Manager, NCS Joint Secretariat.

Bruce G. Weiner,

Lieutenant Colonel, USAF.

[FR Doc. 88–25259 Filed 10–31–88; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment on the Arts; Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Presenters Section) to the National Council on the Arts will be held on November 17–18, 1988, from 9:00 a.m.–8:00 p.m.; and on November 19, 1988, from 9:00 a.m.–6:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 19, from 4:00–6:00 p.m. The topic for discussion will include policy issues.

The remaining sessions of this meeting on November 17 and 18 from 9:00 a.m.–8:00 p.m.; and on November 19 from 9:00 a.m.–4:00 p.m. 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 information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further Information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

October 25, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–25166 Filed 10–31–88; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–4 (50–269, –270, –287)]

Duke Power Co.; Issuance of Environmental Assessment and Finding of No Significant Impact for Oconee Independent Spent Fuel Storage Installation at Oconee Nuclear Station

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a materials license under the requirements of Title 10 Part 72 of the Code of Federal Regulations (10 CFR Part 72) to Duke Power Company (DPC or the Applicant), authorizing receipt and storage of spent fuel in an Independent Spent Fuel Storage Installation (ISFSI) located onsite at its Oconee Nuclear Station, Oconee County, South Carolina. The Commission's Office of Nuclear Material Safety and Safeguards, Division of Industrial and Medical Nuclear Safety, has completed its environmental review in support of the issuance of a materials license. The "Environmental Assessment (EA) Related to the Construction and Operation of the Oconee Nuclear Station Independent Spent Fuel Storage Installation" has been issued in accordance with 10 CFR Part 51.

Description of the Proposed Action

The proposed licensing action would authorize the applicant to construct and operate a dry storage ISFSI. The function of the ISFSI is to provide interim storage of up to 2112 spent fuel assemblies from Oconee Units 1, 2 and 3. Twenty-four fuel assemblies are stored in an inert atmosphere inside a stainless steel canister, which provides confinement, shielding, criticality control and heat removal. Spent fuel loading and canister preparation takes place within the Oconee Plant reactor buildings. The canister is then transported inside a transfer cask to the onsite ISFSI where the canister is placed inside a concrete horizontal storage module (HSM), which provides additional shielding. Up to a total of 88 concrete storage modules would be required under the requested license.

Need for the Proposed Action

After twice reracking the spent fuel storage pools at the Oconee Nuclear Station, the pools have reached their maximum structural capacity. The Oconee Unit 3 spent fuel pool exceeded its prudent operating reserve capacity in January 1987 and is expected to exceed its ability to hold an entire offloaded reactor core in May 1991. The shared Oconee Unit ½ spent fuel pool is expected to exceed its prudent operating reserve capacity in February 1989 and its ability to hold an entire offloaded reactor core in December 1990. Additional spent fuel is being generated as the three Oconee reactors continue to operate, and additional storage capacity will be required in order to recover and maintain a prudent operating reserve of spent fuel storage capability. The proposed action would provide the additional capacity required to store spent fuel expected to be generated at the Oconee Nuclear Station through the year 2003, and maintain prudent operating reserve storage capacities.

Enviromental Impacts of the Proposed Action

As discussed in the EA, no significant construction impacts are anticipated. Similarly, no significant impacts are expected from ISFSI operations. The activities will affect only about three to four acres of land area on the Oconee site, resulting in a loss of less than one percent of the biological production onsite. Construction will be phased according to storage requirements. The potentials for fugitive dust, erosion and noise impacts, typical of the planned construction activities, are minimal, and with good construction practices will be controlled to insignificant levels.

The radiological impacts from liquid and gaseous effluents arising from cask loading and preparation are minimal, and fall within the scope of impacts evaluated for licensed reactor operations and are controlled by the existing Oconee Nuclear Station reactor Technical Specifications. The primary radiological exposure pathway associated with ISFSI operation is direct irradiation of nearby residents and site workers. The dose to the nearest resident is about 0.03 mrem/yr and when added to that from Oconee Nuclear Station reactor operations is well within the 25 mrem/yr requirement of 10 CFR 72.104. The collective dose to residents within one to two miles of the ISFSI is about 0.007 person-rem/yr. The occupational dose to site workers due to construction and operations is a small fraction of the total occupational dose

commitment at the Oconee Nuclear Station. The radiological impacts due to postulated accidents at the Oconee ISFSI are only a small fraction of the 5 rem criteria specified in 10 CFR 72.106(b), and are less than the Environmental Protection Agency Protective Action Guides for individuals exposed to radiation as a result of accidents.

Alternatives to the Proposed Action

Several alternatives were discussed in the EA, but none sufficiently met the spent fuel storage requirements for the Oconee Nuclear Station. The alternative of no action would force a shutdown of power generation at the Oconee Nuclear Station. The "Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel," NUREG–0575, found this alternative to be undesirable. Because the Commission has concluded there are no significant environmental impacts associated with the proposed action, any alternative of equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

The only resources committed irretrievably not previously considered in environmental documents relating to the Oconee Nuclear Station are the steel, concrete and other construction materials used in the ISFSI storage canisters and modules.

Agencies and Persons Contacted

Outside agencies were contacted for supporting documentation in connection with the preparation of the Environmental Assessment: Anderson County Planning Commission, Appalachian Council of Governments, National Severe Storms Forecast Center, Oak Ridge National Laboratory, Oconee County Planning Commission, and Pickens County Planning Commission.

Finding of No Significant Impact

In summary, the ISFSI is located in a highly disturbed area within the confines of the Oconee Nuclear Station exclusion area and will result in a minor commitment of land resources. The proposed action involves no significant change in the type, or increase in the amounts of effluents currently released from Oconee operations. There is no significant increase in the individual and collective radiation doses to both the public and occupational workers. Therefore, the proposed action will not significantly affect the quality of the human environment. According, pursuant to 10 CFR 51.31 and 10 CFR 51.32, the Commission has determined that a finding of no significant impact is appropriate and an environmental impact statement (EIS) need not be prepared for the issuance of a materials license for the Oconee ISPSI.

The EA for the proposed action, on which this Finding of No Significant Impact is based, relied on several environmental documents: (1) "Final Environmental Statement Related to Operation of Oconee Nuclear Station Units 1, 2 and 3," dated March 1972; (2) "Supplement to Environmental Quality Features of the Duke Power Company's Keowee-Toxaway Project," dated October 1971; (3) "Independent Spent Fuel Storage Installation Environmental Report Duke Power Company Oconee Nuclear Station," dated March 1988; (4) Supplemental information to the "Independent Spent Fuel Storage Installation Environmental Report Duke Power Company Oconee Nuclear Station," contained in a letter from Duke Power Company dated August 16, 1988, and (5) "Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel," NUREG–0575, Volumes 1–3, August 1979.

The EA and other documents related to this proposed action are available for public inspection and for copying for a fee at the NRC Public Document Room, 2021 L Street, NW., Washington, DC 20555 and at the Local Public Document Room at the Oconee County Public Library, 501 West South Broad Street, South Carolina, 29691.

Dated at Rockville, Maryland, this 25th day of October 1988.

For the Nuclear Regulatory Commission.

John P. Roberts,

Acting Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 88–25225 Filed 10–31–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–311]

Public Service Electric & Gas Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a temporary exemption from the requirements of Paragraph 50.46(a)(1)(i) to 10 CFR Part 50 to Public Service Electric and Gas Company et al. (the licensee) for the Salem Generating Station, Unit 2, located at the licensee's site in Salem County, New Jersey.

Environmental Assessment

Identification of proposed Action: The licensee's request for an exemption and the basis therefore are contained in a letter dated October 31, 1988. During the fourth refueling outage at Salem, Unit 2, all row 1 steam generator tubes were plugged and some unrecoverable loose parts were left in the Reactor Coolant System. The licensee has performed an analysis to demonstrate that the aforementioned conditions have no safety significant impact on the operation of the facility. However, the current Emergency Core Cooling System (ECCS) evaluation model (Westinghouse 1978) is no longer acceptable for further licensing actions as detailed in Generic Letter 88–16, Westinghouse ECCS Evaluation Models, dated October 22, 1988. Paragraph 50.46(a)(1)(i) of 10 CFR Part 50 requires ECCS cooling performance to be calculated in accordance with an acceptable model. The proposed exemption would temporarily exempt the licensee from this requirement until March 31, 1989, thus allowing Salem, Unit 2, to operate while the analysis is being performed.

The Need for the Proposed Action: The proposed temporary exemption from the regulation is required to allow Salem, Unit 2, to restart from the fourth refueling outage and operate until March 31, 1989 when the ECCS reanalysis will be completed. Without this temporary exemption, Salem, Unit 2, would be forced to remain shut down until the ECCS reanalysis is completed, a period of about five months.

Environmental Impacts of the Proposed Action: There are no adverse environmental impacts associated with the proposed action. During the period of the exemption the plant will continue with normal operations. The licensee has analyzed the existing conditions (i.e. 2.7% of the steam generator tubes plugged and loose parts in the reactor coolant system) for their effect on the large break Loss of Coolant Accident (LOCA) analysis. The results show that the plugged steam generator tubes would increase the peak clad temperature (PCT) by 28°F. In addition, if the loose parts were to be lodged in their most unfavorable location and a LOCA occurred, the PCT for that location would increase by 22°F. However, the current licensing models use a higher fuel rod backfill pressure than actually exists in fuel rods that are currently in use. If this change in actual fuel rod backfill pressure is accounted for, the PCT is reduced by about 100°F. The net calculated change in PCT is a reduction of about 50°F. The criteria of

10 CFR 50.46(b) will continue to be satisfied. Therefore, the proposed change does not increase the probability or consequences of accidents, no changes are being made in the allowable amounts and no significant changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Likewise, the exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action: Because we have concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. Such action would not reduce environmental impacts of Salem, Unit 2 operations, and would result in a delay of about five months in restarting Salem, Unit 2.

Alternative Use of Resources: These actions do not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to Operation of Salem Generating Station, Units 1 and 2," dated April 1973.

Agencies and Persons Consulted: The NRC reviewed the licensee's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Findings of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed exemption 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 futher details with respect to the proposed action, see the licensee's request for the exemption dated October 21, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Steet, NW., Washington, DC, and at the Salem Free County Public Library, 112 W. Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland this 27th day of October 1988.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-25347 Filed 10-31-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 17-19, 1988, in Room P-114, 7920 Norfolk Avenue, Bethesda, MD. Notice of this meeting was published in the **Federal Register** on October 20, 1988.

Thursday, November 17, 1988

8:30 a.m.-8:45 a.m.: Comments by ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest.

8:45 a.m.-10:45 a.m.: NRC Quantitative Safety Goals (Open)—Review and discuss proposed implementation plan for the NRC Quantitative Safety Goals. Meeting with representatives of NRC Staff, as appropriate.

11:00 a.m.-12:00 Noon: Supply of Misrepresented Equipment (Open)—Briefing by NRC Staff regarding NRC activities to identify misrepresented equipment supplied to nuclear power plants.

11:00 p.m.-3:00 p.m.: PRISM Nuclear Power Plant (Open)—Discuss proposed ACRS report to NRC regarding this liquid metal cooled nuclear power plant design concept.

3:15 p.m.-4:00 p.m.: Future ACRS Activities (Open)—Discuss anticipated ACRS subcommittee activities and matters proposed for consideration by the full Committee.

4:00 p.m.-5:15 p.m.: ACRS Subcommittee Activities (Open)—Hear reports and discuss the status of assigned subcommittee activities.

5:15 p.m.-5:45 p.m.: Nomination of Officers (Closed)—Discuss report of Nominating Committee and qualifications of candidates for ACRS officers for FY 1989.

This session will be closed to discuss information of a personal nature.

Friday, November 18, 1988

8:30 a.m.-10:30 a.m.: Motor Operated Valve Testing and Surveillance (Open/Closed)—Review and comment regarding proposed NRC generic letter regarding requirements for MOV valve testing and surveillance.

Portions of this session will be closed as necessary to discuss Proprietary Information regarding this subject.

10:45 a.m.-12:30 p.m.: Operator Requalification (Open)—Briefing regarding lessons learned for implementation of revised operator qualification methodology (Draft Examiner Standard 601).

1:30 p.m.-3:30 p.m.: NRC Quantitative Safety Goals (Open)—Discuss proposed ACRS report to NRC regarding the proposed implmentation plan for the NRC Quantitative Safety Goals.

3:45 p.m.-5:30 p.m.: PRISM Nuclear Plant (Open)—Discuss proposed ACRS report to NRC regarding the proposed design concept (preapplication review) of this liquid-metal cooled reactor.

Saturday, November 19, 1988

8:30 a.m.-12:00 Noon: Preparation of ACRS Reports (Open/Closed)—Discuss proposed reports to NRC regarding items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information.

1:00 p.m.-2:30 p.m.: Miscellaneous (Open)—Complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1987 (51 FR 37241). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and to discuss Proprietary Information applicable to the matters being considered (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 8:15 a.m. and 5:00 p.m.

Date: October 27, 1988.

Andrew L. Bates,

Acting Advisory Committee Management Officer.

[FR Doc. 88–25226 Filed 10–31–88; 8:45 a.m.]

BILLING CODE 7590–01–M

[Docket Nos. 50–454, 50–455]

Commonwealth Edison Co.; Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the withdrawal of an amendment application dated August 5, 1988, filed by Commonwealth Edision Company (the licensee). The application requested amendments to Facility Operating License Nos. DPR–37 and DPR–66 for operation of Byron Station, Units 1 and 2, located in Ogle County, Illinois.

The proposed amendment would have changed the Technical Specification action statement involving Rock River water flow. The Commission issued a Notice of Consideration of Issuance of Amendment which was published in the **Federal Register** on August 26, 1988 (53 FR 32803).

On September 26, 1988, two petitions for leave to intervene were filed: one by the League of Women Voters of Rockford, the other by Mrs. Betty Johnson and the DeKalb Area Alliance for Responsible Energy (DAARE). On September 27, 1988, a petition for leave to intervene was filed by Sinnissippi Alliance for the Environment (SAFE).

By letter dated October 3, 1988, the licensee withdrew the application for the proposed amendment, stating that recent rains in the Byron area have made the proposed amendment unnecessary. The Commission has considered that licensee's October 3, 1988, letter and has determined that permission to withdraw the August 5, 1988, application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated August 5, 1988, and (2) the licensee's letter dated October 3, 1988 withdrawing the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room located at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101.

Dated at Rockville, Maryland this 26th day of October 1988.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Project Manager, Project Directorate III–2, Division of Reactor Projects–111, IV, V and Special Projects.

[FR Doc. 88–25227 Filed 10–31–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 9999004, etc.]

Wrangler Laboratories et al.; Hearing

October 26, 1988.

Notice is hereby given that, by Memorandum and Order dated October 26, 1988, the Atomic Safety and Licensing Board for this proceeding has granted the request of Wrangler Laboratories, Larsen Laboratories, Orion Chemical Co. and John P. Larsen (Licensees) for a hearing in the above-titled proceeding (Docket No. 9999004; General License Authority of 10 CFR 40.22; E.A. 87–223; ASLBP No. 89–582–01–SC). The hearing concerns the Order Revoking Licenses issued by the NRC Staff on August 15, 1988 (53 FR 32125, August 23, 1988). The parties to the proceeding are the Licensees and the NRC Staff. The issue to be considered at the hearing is whether the Order should be sustained.

For further information concerning this proceeding, see the Order Revoking Licenses, cited above; and the Order Suspending Licenses, dated February 25, 1988 (53 FR 7452, March 8, 1988). Other materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L Street NW., Washington DC 20555, and at the Commission's Region IV Office, Parkway Central Plaza Building, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

During the course of this proceeding, the Licensing Board will conduct one or more prehearing conferences and, as necessary, evidentiary hearing sessions. The time and place of these sessions will be announced in later Licensing Board orders. Members of the public will be invited to attend these sessions.

Persons who are not parties to the proceeding are invited to submit limited appearance statements with regard to the Order Revoking Licenses, as permitted by 10 CFR 2.715(a). During certain prehearing conference and/or evidentiary hearing sessions, such persons will be afforded the opportunity to make oral limited appearance statements. These statements do not constitute testimony or evidence in this proceeding, but may help the Board and/or parties in their deliberations as to the proper boundaries of the issue to be considered. Written statements, or requests to make oral statements, should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, One White Flint North, 11155 Rockville Pike, Rockville, Maryland 20852. A copy of such statement or request should also be served on the Chairman, Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland, this 26th day of October, 1988.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 88–25228 Filed 10–31–88; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

October 26, 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 securities:

Cypress Semiconductor Corp. Common Stock, $.01 Par Value (File No. 7–3971)

Cypress Minerals Co. Common Stock, No Par Value (File No. 7–3972)

Midway Airlines Common Stock, $.01 Par Value (File No. 7–3973)

Manville Corp. $2.70 Preferred (File No. 7–3974)

Organogenesis, Inc. Common Stock, $.01 Par Value (File No. 7–3975)

Sovran Financial Corp. Common Stock, $5.00 Par Value (File No. 7–3976)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 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. 88-25189 Filed 10-31-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 26, 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 securities:

Canada Southern Petroleum Common Stock, $1.00 Par Value (File No. 7-3955)
Global Income Plus Fund Inc. Common Stock, $.001 Par Value (File No. 7-3956)
Astrotech International Corporation Common Stock, $.01 Par Value (File No. 7-3957)
Astrotech International Corporation Warrants expiring 3/31/93 (File No. 7-3958)
PHH Corporation Common Stock, Without Par Value (File No. 7-3959)
Zero Corporation Common Stock, $1.00 Par Value (File No. 7-3960)
Acuson Corporation Common Stock, $.0001 Par Value (File No. 7-3961)
Cypress Semiconductor Corporation Common Stock, $.01 Par Value (File No. 7-3962)
Interstate Securities, Inc. Common Stock, $.20 Par Value (File No. 7-3963)
Bearings, Inc. Common Stock, No Par Value (File No. 7-3964)
Longview Fibre Co. Common Stock, $7.50 Par Value (File No. 7-3965)
Manville Corporation Common Stock, $.01 Par Value (File No. 7-3966)
Manville Corporation Series B Cumulative Preference Stock, $1.00 Par Value (File No. 7-3967)
Sterling Chemical Inc. Common Stock, $.01 Par Value (File No. 7-3968)
VM Software, Inc. Common Stock, $.01 Par Value (File No. 7-3969)
High Income Advantage Trust II Shares of Beneficial Interest, $.01 Par Value (File No. 7-3970)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 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. 88-25190 Filed 10-31-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26218; File No. SR-MSE-88-9]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change Relating to Market Circuit Breaker Proposal

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 17, 1988, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change adds the following new Rule 10A to Article IX. This rule change shall be effective for a one-year pilot period ending on the last day of the month in which the first anniversary of its effective date falls.[1] The text of the rule change is as follows:

Trading Halts Due to Extraordinary Market Volatility

Rule 10A. If the Dow Jones Industrial Average SM [2] reaches a value 250 or more points below its closing value on the previous trading day, trading in stocks shall halt on the Exchange and may not reopen for one hour. If, on the same day, the average subsequently reaches a value 400 or more points below that closing value, trading in stocks shall halt on the Exchange and may not reopen for two hours.

* * * *Interpretations and Policies*

.10 The restrictions in this Rule 10A shall apply whenever the Dow Jones Industrial Average reaches the trigger values notwithstanding the fact that, at any given time, the calculation of the value of the average may be based on the prices of less than all of the stocks included in the average.

.20 The reopening of trading following a trading halt under this Rule 10A shall be conducted pursuant to procedures adopted by the Exchange and communicated by notice to its members and member organizations.

.30 If the 250-point trigger is reached within one hour of the scheduled close of trading for a day, or if the 400-point trigger is reached within two hours of the scheduled close of trading for a day, trading in stocks shall halt for the remainder of the day; *provided, however,* that if the 250-point trigger is reached between one hour and one-half hour before the scheduled closing, or the 400-point trigger is reached between two hours and one hour before the scheduled

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[1] The MSE originally stated that the rule would not become effective until all other U.S. stock and options exchanges, the NASD, and U.S. futures exchanges that trade futures contracts on stock indexes and options on such futures contracts adopted corresponding rules. The MSE subsequently amended its filing to eliminate this contingency. Letter from Craig Long, Vice President, General Counsel and Secretary, MSE, to Mary Revell, Attorney, Commission, dated October 21, 1988.

[2] "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.

closings, the Exchange may use abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish closing prices.

.40 Nothing in this Rule 10A should be construed to limit the ability of the Exchange to otherwise halt or suspend the trading in any stock or stocks traded on the Exchange pursuant to any other Exchange rule or policy.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Over the last year, the securities markets have experienced unprecedented volatility. This volatility has been the subject of a number of market studies and reports.

The most recent of these reports was the Interim Report ("Report") of the Working Group on Financial Markets ("Working Group") issued by the Under Secretary for Finance of the Department of the Treasury and the Chairmen of the Commission, the Commodity Futures Trading Commission, and the Board of Governors of the Federal Reserve System in May 1988. In its Report, the Working Group recommends "coordinated trading halts and reopenings for large, rapid market declines that threaten to create panic conditions." The Working Group specifically recommended that all U.S. markets for equity and equity-related products—stocks, individual stock options, stock index options, futures and options on futures—halt trading for one hour if the Dow Jones Industrial Average ("DJIA") declines 250 or more points from its previous day's closing level and for two hours if the DJIA declines 400 points from the previous day's close.

In light of the Working Group Report, the NYSE adopted Rule 80B which will provide for temporary halts in the trading of all stocks, stock options, and stock index options on the NYSE when the DJIA reaches the trigger values discussed in the Working Group's Report.[3] The NYSE asserted that halts will promote stability in the stock market by allowing market participants time to reestablish an equilibrium between buying and selling interest and to help ensure that all market participants have a reasonable opportunity to become aware of and respond to significant market price movements. The NYSE originally conditioned the effectiveness of Rule 80B upon the adoption of corresponding rules by all other U.S. stock and option exchanges, as well as other U.S. futures markets that trade futures on stock index groups (and options on such futures), and upon such rules receiving all necessary regulatory approvals and becoming effective. The NYSE subsequently amended its filing to make its rule effective upon approval by the Commission.[4] The MSE is filing its proposed Rule 10A in response to the NYSE's filing and anticipates that its effectiveness will be coordinated with the other exchanges' corresponding rule effective dates. Rule 10A is proposed for a pilot period of one year, during which time the Exchange will analyze its experience with proposed Rule 10A and will determine in conjunction with the Commission and other market places whether to continue the pilot beyond one year.

Statutory basis—The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding this proposed rule change.

[3] File No. SR-NYSE-88-23, approved in Securities Exchange Act Release No. 26198 (October 19, 1988).

[4] Letter from Richard A. Grasso, President and Chief Operating Officer, NYSE, to Richard Ketchum, Director, Division of Market Regulation, Commission, dated October 17, 1988.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds good cause for approving the MSE proposed rule change prior to the thirtieth day after the date of publication of the proposal in the **Federal Register**. The proposal is substantially identical to the NYSE circuit breaker proposal contained in File No. SR-NYSE-88-23 that was published for the full thirty-day period and was approved by the Commission in Securities Exchange Act Release No. 26198 (October 19, 1988). In light of the absence of any comments on the NYSE's filing and the Commission's view of the benefits that may accrue from adoption of coordinate circuit breakers that respond to stock market volatility and that may increase investor confidence in the markets, the Commission believes a good cause finding is justified.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 22, 1988.

The Commission finds that the proposed rule change filed by the MSE is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6[5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the

[5] 15 U.S.C. 78f (1982).

[6] 15 U.S.C. 78s(b)(2) (1982).

proposed rule change is approved for a one-year pilot period ending October 31, 1989.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[7]

Date: October 26, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-25188 filed 10-31-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/1231]

The U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Study Group C; Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on December 14, 1988 at the Newark Marriott hotel from 9:00 a.m. to 12:00 p.m.

The purpose of the meeting will be to make final preparations for the first meeting of Study Group XV.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. Prior to the meeting, persons who plan to attend should so advise Ms. Cindy Perfumo—(201) 234 4047.

Dated: October 17, 1988.

Earl S. Barbely,

Director, Office of Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 88-25143 Filed 10-31-88; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/1232]

The U.S. Organization For The International Telegraph and Telephone Consultative Committee (CCITT) Integrated Service Digital Network (ISDN) Joint Working Party and Study Group C; Meeting

The Department of State announces that the Integrated Services Digital Network (ISDN), Joint Working Party, and Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet at 8:00 a.m. on December 16, 1988 at the McLean Hilton Hotel, McLean, Virginia.

The purpose of the meeting is to review corporate position papers as well as the results of agreed papers from the T1S1 Committee for submission to the first relevant official CCITT Study Group meeting of Study Groups I, XI, XII, XV, and XVIII. The proposed agenda reflects that this meeting will be held jointly with T1S1 Plenary session, and is as follows:

1. T1S1 Roll Call.
2. Approval of Agenda.
3. Approval of Minutes of October 14 T1S1 Session (T1S1/88-217) and October 21 JWP/Study Group C Meeting.
4. Reports. a. CCITT Plenary, November 14-25, 1988, Melbourne. b. X3S3 Liaison.
5. Election of Working Group T1S1.3 Officers—A letter indicating organizational support of a nomination is required.
6. Working Group Activity Summaries and Actions on Working Group Recommendations Regarding Documents Ready for Consideration by T1S1 (Including Possibly 3 Roll Call Ballots on Draft Proposed American National Standards)—JWP/SG C Approval of Documents for the first meetings of Groups I, XI, XII, XV, and XVIII during the next Plenary period.
7. Future Meetings.
8. Other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, those intending to attend should notify the office of Mr. Earl S. Barbely, State Department, Washington, DC; telephone (202) 647 5220, not later than December 14, 1988.

Date: October 21, 1988

Earl S. Barbely,

Director, Office of Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 88-25153 Filed 10-31-88; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Chemical Transportation Advisory Committee, Subcommittee on Coal Transportation; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Subcommittee on Coal Transportation of the Chemical Transportation Advisory Committee (CTAC). The meeting will be held on Tuesday, December 13, 1988, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. The subcommittee is considering requirements for the safe transportation of coal in ships and barges. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m.

The agenda for the meeting follows:

1. Call to order.
2. Opening remarks.
3. Review and discussion of CTAC Task Statement
4. Subcommittee organization.
5. Consideration of regulatory proposals.
6. Assignment of Subcommittee work.
7. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time.

FOR FURTHER INFORMATION CONTACT: Mrs. D. Anderson or Mr. F. Wybenga, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC 20593, (202) 267-1217.

Dated: October 21, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88-25234 Filed 10-31-88; 8:45 am]

BILLING CODE 4910-14-M

[CGD 88-094]

Chemical Transportation Advisory Committee, Subcommittee on Vapor Control, Lightering Working Group; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a meeting of the Chemical Transportation Advisory Committee (CTAC) Subcommittee on Vapor Control, Lightering Working Group, which will be held on Wednesday, November 30, 1988, in Room 3442 and 3444, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 5:00 p.m. The subcommittee is considering

[7] 17 CFR 200.30-3(a)(12) (1988).

requirements for tank vessels and waterfront facilities which use vapor control systems. At this meeting, the group will consider requirements for vapor control systems used on tank vessels in conjunction with lightering operations.

The agenda is as follows:

1. Call to order.
2. Opening remarks.
3. Consideration of requirements for vapor control systems used in conjunction with lightering operations.
4. Assignment of Subcommittee work.
5. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meetings. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R. H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1217.

Dated: October 21, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88-25235 Filed 10-31-88; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Travis County, TX

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Travis County, Texas.

FOR FURTHER INFORMATION CONTACT: Gamaliel E. Olvera, District Engineer, Federal Highway Administration, 826 Federal Office Building, Austin, Texas 78701, Telephone: (512) 482-5966.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (SDHPT), intends to prepare an environmental impact statement (EIS) on a proposal to reconstruct a segment of Interstate Highway 35 (IH 35) in Travis County. The project area is located within the Austin city limits. The project limits extend from Farm-to-Market Road 969 (Martin Luther King, Jr. Blvd.) south to State Highway 71 (Ben White Blvd.). The IH 35 project area is extensively urbanized and nearly fully developed. Traffic volumes in the area have doubled in the past ten years and projected to nearly double again in the next ten years. The traffic capacity of the existing interstate is not adequate to meet future demand. Segments of the interstate already operate at essentially full capacity during portions of the morning and afternoon peak hours. Without improvements, as future traffic growth occurs, significant congestion will occur more frequently and for longer periods of the day. Further, the existing roadway does not conform to present day geometric standards. Examples of existing deficiencies include: insufficient distance between on-ramps and successive off-ramps, insufficient ramp lengths, excessive vertical grades, and inadequate shoulder widths. These deficiencies adversely affect both capacity and safety. The goals of the proposed project are to provide cost effective improvements to IH 35 which increase capacity and improve safety while providing a transportation solution which is not adversely disruptive to the existing and future environment of the IH 35 corridor.

At least four alternatives will be considered and evaluated in the EIS. They include three possible build alternatives and a no-build alternative.

There are currently no plans to hold a formal scoping meeting for the proposed project. A public meeting and a public hearing will be held. Public notices will be given of the time and place of the meeting and hearing. The Environmental Assessment is available for review by the public or any interested party. The draft EIS will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on October 24, 1988.

Gamaliel E. Olvera,

District Engineer, Austin, Texas.

[FR Doc. 88-25167 Filed 10-31-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 88-70]

Revocation of Individual Broker's License No. 5502; Robert J. Fusco

October 21, 1988.

AGENCY: U.S. Customs Service, Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that the Secretary of the Treasury on July 15, 1987, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111.74 of the Customs Regulations, as amended (19 CFR 111.74), revoked the individual broker's license No. 5502 issued to Robert J. Fusco. This action having been upheld by the United States Court of International Trade (Court No. 87-11-01081) is effective as of September 14, 1988.

Dated: October 21, 1988.

Victor G. Weeren,

Director, Office of Trade Operations.

[FR Doc. 88-25185 Filed 10-31-88; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice.

SUMMARY: This document contains a correction to a notice which was published in the **Federal Register** for Wednesday, August 24, 1988 (53 FR 32320). The notice related to the appointment of members of the Legal Division to the Performance Review Board, Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Sylvia Compton, Secretary, Executive Resources Board at 202-566-3363 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice that is the subject of this correction provided the public with a list of persons appointed to the Legal Division Performance Review Board, Internal Revenue Service Panel. These appointments were made under the authority delegated by the General Counsel of the Department of the

Treasury by General Counsel Order No. 21 (Rev. 4), and pursuant to the Civil Service Reform Act.

Need for Correction

As published, the notice contains an error in the title of one of the panel members.

Correction of Publication

Accordingly, the notice of appointments, which was the subject of FR Doc. 88–19188, is corrected as follows:

1. The line listing the second member of the panel should read "2. Jeanne S. Archibald, Deputy General Counsel;".

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 88–25240 Filed 10–31–88; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

English Teaching Advisory Panel, Meeting

The English teaching Advisory Panel will conduct a meeting on November 14 and 15, 1988, in Room 800, 301 4th Street SW., Washington, DC. Below is the intended agenda.

Monday, November 14, 1988

9:00 Welcome by Dr. Mark Blitz, Associate Director, Bureau of Educational and Cultural Affairs.
9:15 Introduction of Panel Members and USIA Officers by Dr. Betty W. Robinett, Chairperson, English Teaching Advisory Panel.
9:30 Remarks by Mr. Philip W. Pillsbury, Acting Director, Office of Cultural Centers and Resources.
9:40 Remarks by Mr. William B. Royer, Chief, English Language Programs Division.
9:50 Discussions chaired by Dr. Betty W. Robinett: March 1988 Advisory Panel Report: Action taken.
10:00 ELTB (English Langauge Teaching by Broadcast) up-date, provided by Macmillan Publishing Company.
10:30 Coffee break.
10:45 Discussions continued: Worldnet—current English teaching broadcasts.
11:15 E/CE Division, activities review.
1. E/CE Budget for FY–89.
2. E/CEP Program Branch.
3. E/CEM Materials Development Branch.
4. E/CEF English Teaching Forum Branch.
12:00 Lunch
1:30 Discussions continued:
5. English Teaching Fellow Program.
1:45 Open Discussion between E/CE staff and Advisory Panel members on topics of professional concern affecting the carrying out of Division responsibilities.
3:00 Coffee break.
3:15 Panel members: An informal update on relevant EFL developments in theory and practice.

Tuesday, November 15, 1988

9:00 Remarks by Robert R. Gosende, Deputy Associate Director, Bureau of Educational and Cultural Affairs.
9:30 General discussion: Report to the Agency.
10:45 Coffee break.
11:00 Meeting with USIA Director Charles Z. Wick.
11:15 General discussion continued.
12:30 Lunch.
1:30 General discussion and adjournment.

Members of the public interested in attending the November 14–15 meeting should contact William Royer, (202) 485–2869 to make prior arrangements as access to the building is controlled.

Dated: October 26, 1988.

Philip W. Pillsbury,

Acting Director, Office of Cultural Centers and Resources.

[FR Doc. 88–25142 Filed 10–31–88; 8:45 am]

BILLING CODE 8230–01–M

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held at the National Press Building, Rom 898, 529 14th St. NW., Washington, DC on November 16, 1988 from 11:15 a.m. to 12:15 p.m.

The Commission will visit USIA's Foreign Press Center and receive a briefing from Press Center Director Carol Ludwig.

Please call Gloria Kalamets, (202) 485–2468, if you are interested in attending the meeting.

Dated: October 26, 1988.

Ledra L. Dildy,

Staff Assistant, Federal Register Liaison.

[FR Doc. 88–25272 Filed 10–31–88; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 211
Tuesday, November 1, 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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 4, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 88–25336 Filed 10–28–88; 12:30 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Thursday, November 10, 1988.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 88–25337 Filed 10–28–88; 12:30 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 18, 1988.

PLACE: 2033 K St., NW., Washington, DC., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 88–25338 Filed 10–28–88; 12:30 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 25, 1988.

PLACE: 2033 K St., NW., Washington, DC., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 88–25339 Filed 10–28–88; 12:30 pm]
BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, November 1, 1988.
LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public

1. Cigarette Lighters—Status Report

The staff will brief the Commission on activities related to the child resistant cigarette lighter project.

Closed to the Public

2. Enforcement Matter OS# 4078

The Commission will consider Enforcement Matter OS# 4078.

3. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.
CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

Sheldon D. Butts,
Deputy Secretary.
October 28, 1988.
[FR Doc. 88–25267 Filed 10–27–88; 4:51 pm]
BILLING CODE 6355–01–M

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, November 7, 1988.

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: October 28, 1988.

James McAfee,
Associate Secretary of the Board.
[FR Doc. 88–25370 Filed 10–28–88; 3:54 pm]
BILLING CODE 6210–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94–409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME AND DATE: 9::00 a.m., Friday, November 18, 1988.

STATUS: Open.

ADDRESS: The Hirshhorn Museum and Sculpture Garden, Eighth Street and Independence Avenue SW., Fifth Floor Board Room, Washington, DC 20506. (202) 357–1300.

FOR FURTHER INFORMATION CONTACT: William Laney, Executive Assistant to the National Museum Services Board, Room 510, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202) 786–0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and

Cultural Affairs Act of 1976, Pub. L. 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting of November 18, 1988 will be open to the public.

If you need special accommodations due to a disability, please contact: Institute of Museum Services, Room 510, 1100 Pennsylvania Avenue NW. Washington, DC 20506, (202) 786–0536, TDD (202) 682–5496 at least seven (7) days prior to the meeting.

National Museum Services Board November 18, 1988 Meeting Agenda

I. NMSB Chairman's Report & Approval of Minutes of July 21, 1988 Meeting
II. IMS Director's Report
III. IMS Legal Counsel Regulatory Report
IV. Program Director's Report & NMSB Action Items
  A. Conservation Assessment
  B. MAP III Proposal
  C. GOS—Recommendations—Statisticians Report
V. Working Lunch—Speaker on Trusteeship
VI. General Board Discussion

Dated: November 26, 1988.

Lois Burke Shepard,

IMS Director.

[FR Doc. 88–25345 Filed 10–28–88; 1:35 pm]

BILLING CODE 7036–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Board Meeting

TIME AND DATE: 2:00 p.m.—Wednesday, November 9, 1988.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, 376–2421.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes, August 4, 1988.
2. Executive Director's Activity Report.
3. Treasurer's Report.
4. Appointment of Assistant Secretary.
5. Establishment of CY 1989 Board Meeting Dates.
6. Personnel Committee Report.

Carol J. McCabe,

Secretary.

[FR Doc. 88–25268 Filed 10–27–88; 4:51 pm]

BILLING CODE 7570–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Personnel Committee Meeting

TIME AND DATE: 3:45 p.m.—Tuesday, November 8, 1988.

PLACE: National Credit Union Administration, 1776 G Street, NW., 6th Floor, Chairman's Conference Room, Washington, DC 20456.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, 376–2421.

AGENDA:

1. Approval of FY 1989 Officer Salaries.
2. Merit Award.

Carol J. McCabe,

Secretary.

[FR Doc. 88–25269 Filed 10–27–88; 4:51 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 31, November 7, 14, and 21, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 31

Wednesday, November 2

10:00 a.m.
  Affirmation/Discussion and Vote (Public Meeting)
  a. 10 CFR Part 73—Safeguards Requirements for Fuel Facilities Possessing Formula Quantities of Strategic Special Nuclear Material (Tentative)

Week of November 7—Tentative

Wednesday, November 9

3:30 p.m.
  Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, November 10

10:00 a.m.
  Briefing on Final Rule on Standards for Protection Against Radiation—Part 20 (Public Meeting)

Week of November 14—Tentative

Wednesday, November 16

10:00 a.m.
  Briefing on Status of Resolution of Concerns with Location of Exploratory Shaft at Yucca Mountain (Public Meeting)

Thursday, November 17

2:00 p.m.
  Briefing by DOE on High Level Waste Program (Public Meeting)
3:30 p.m.
  Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 21—Tentative

Wednesday, November 23

10:00 a.m.
  Briefing on Effectiveness of Diagnostic Evaluations (Public Meeting)
11:30 a.m.
  Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
  Briefing on Accident Management Program (Public Meeting)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,

Office of the Secretary.

October 27, 1988.

[FR Doc. 88–25348 Filed 10–28–88; 2:27 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 53, No. 211
Tuesday, November 1, 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

Forest Service

36 CFR Part 251

Ski Area Permits

Correction

In proposed rule document 88-24025 beginning on page 40739 in the issue of Tuesday, October 18, 1988, make the following corrections:

1. On page 40739, in the third column, in the third complete paragraph, in the fourth line, "by" should read "be".

§ 251.56 [Corrected]

2. On page 40741, in the third column, in § 251.56(b)(2)(ii), in the third line, "as" should read "a".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 87-312]

Amendment Of Commission's Rules To Permit Commercial Enterprises To Be Licensed Directly in the Special Emergency Radio Service

Correction

In rule document 88-24091 appearing on page 40894 in the issue of Wednesday, October 19, 1988, make the following correction:

In the second column, in the heading, the docket number was inaccurate and should appear as set forth above.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[FCC 88-256]

Personal Radio Services

Correction

In rule document 88-21608 beginning on page 36788 in the issue of Thursday, September 22, 1988, make the following corrections:

§ 95.635 [Corrected]

On page 36791, in the third column, in § 95.635(c)(2), in the fifth line, "of" should read "or"; and in the eighth line, "Whichever" should read "whichever".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 312 and 314

[Docket No. 88N-0359]

Investigational New Drug, Antibiotic, and Biological Drug Product Regulations; Procedures for Drugs Intended to Treat Life-Threatening and Severely Debilitating Illnesses

Correction

In rule document 88-24457 beginning on page 41516 in the issue of Friday, October 21, 1988, make the following correction:

On page 41524, in the third column, a signature line was inadvertently omitted and should be inserted above the signature line for Secretary Bowen to read as follows:

Frank E. Young,

Commissioner of Food and Drugs.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[OACT-017-N]

Medicare Program; Inpatient Hospital Deductible for 1989

Correction

In notice document 88-22629 beginning on page 38357 in the issue of Friday, September 30, 1988, make the following corrections:

1. On page 38358, in the first column, in the first complete paragraph, in the 20th line, "with" was misspelled.

2. On the same page , in the same column, in the same paragraph, in the 26th line, beginning with "Therefore" the text should read as follows: "Therefore, there is no reason to believe that real case mix increase has not also returned to the long-term trend level of 0.5 percent. As a consequence, we believe that the case mix increase associated with coding changes totals 2.16 percent and, for purposes of determining the 1989 inpatient hospital deductible, we are estimating the real case mix increase at 0.5 percent."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

Requirements for Surface Coal Mining and Reclamation Permit Approval; Ownership and Control

Correction

In rule document 88-22541 beginning on page 38868 in the issue of Monday, October 3, 1988, make the following corrections:

1. On page 38870, in the second column, in the first complete paragraph, in the 12th line, "50 CFR 700.5" should read "30 CFR 700.5"

2. On page 38877, in the second column, in the sixth line, "whenever" should read "whomever".

3. On the same page, in the same column, in the first complete paragraph, in the fifth line, "annual" should read "annul".

4. On page 38879, in the third column, in the last paragraph, "GSMRE" should read "OSMRE".

5. On page 38880, in the first column, in the first complete paragraph, in the last line, "GSMRE" should read "OSMRE".

6. On page 38882, in the first column, in the first complete paragraph, in the seventh line, "is" should read "in".

7. On page 38883, in the second column, in the fourth complete paragraph, in the 13th line, "30 CFR 773.15(B)(i)" should read "30 CFR 773.15(b)(1)(i)".

§ 773.5 [Corrected]

8. On page 38890, in the first column, in § 773.5(a)(1), in the third line, "instrument" should read "instruments".

9. On the same page, in the same column, in § 773.5(b)(1), in the first line, "of director" should read "director or".

10. On the same page, in the second column, in § 773.5(b)(4), "is" should read "in".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AWP-10]

Revision to Flagstaff Pulliam Airport, Arizona Transition Area

Correction

In rule document 88-23554 appearing on page 40054 in the issue of Thursday, October 13, 1988, make the following correction:

§ 71.181 [Corrected]

In the second column, in § 71.181, under **Flagstaff Pulliam Airport, AZ, [Revised]**, the 15th line should read, "35°24'00"N., long."

BILLING CODE 1505-01-D

federal register

Tuesday
November 1, 1988

Part II

Department of Health and Human Services

Food and Drug Administration

Bacteriological Analytical Manual, Chapter 29—Listeria Isolation; Revised Method of Analysis; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88D-0367]

Bacteriological Analytical Manual, Chapter 29—Listeria Isolation; Revised Method of Analysis

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of revised methodology for detecting and confirming the presence of *Listeria monocytogenes* in foods. The revised method will reduce the time required to analyze foods for *L. monocytiogenes* and, therefore, will allow FDA to more quickly obtain analytical results necessary to support the agency's regulatory or administrative actions. The revised method will be incorporated into and replace the *Listeria* isolation method in Chapter 29—"*Listeria* Isolation" of the *Bacteriological Analytical Manual* (6th Edition, Supplement, 1987). The revised *Listeria* method is as analytical sensitive as the method that is being replaced.

FOR FURTHER INFORMATION CONTACT: George J. Jackson, Center for Food Safety and Applied Nutrition (HFF-234), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-245-1051.

SUPPLEMENTARY INFORMATION: The analytical methods used by FDA for the microbiological examination of foods and cosmetics are published by the Association of Analytical Chemists (AOAC) in a manual entitled *Bacteriological Analytical Manual* (BAM). Chapters contained in the BAM each generally deal with the methodology that is to be utilized for the isolation of particular microorganisms, are subjected to a peer review process by scientists within FDA, as well as scientists not affiliated with FDA, and must be determined to be scientifically justified and acceptable before they are published in the BAM.

The revised *Listeria* isolation method has undergone the peer review process and has been determined to be scientifically justified and acceptable for publication in Chapter 29 of the BAM. The revised method is as sensitive as the method that is being replaced. In addition the revised method will save analytical time and will allow FDA to more quickly determine analytical results necessary to support regulatory or administrative actions involving *L. monocytogenes*.

Before these changes, all FDA regulatory actions taken since 1985 against food adulterated with *L. monocytogenes* have been based on the method widely known as the "Lovett Method" (BAM, 6th Edition, Supplement, 1987). This method requires that portions be taken from enrichment broth cultures at 24 hours and 7 days and streaked onto the surface of the selective modified McBride agar. Full confirmation of *L. monocytogenes* requires additional tests on bacteria isolated from the selective medium. A total of 10 to 11 days is needed to isolate and identify *L. monocytogenes* from a food sample.

Many new methods have been developed since 1985 and reported in the scientific literature, some specific for *L. monocytogenes*, others for detection of the genus *Listeria*. Detection methods for a pathogenic bacterium historically undergo periodic modifications as more is learned about the bacterium, its ecology and characteristics, and the applicability of a method for determining presence of the bacterium in a specific food. Thus, the evolution of methodology for *L. monocytogenes*, as for other microganisms, is a reflection of normal scientific progress.

FDA has found that the following changes of the *L. monocytogenes* testing procedures will reduce the total time it takes to confirm the presence of *L. monocytogenes* in a food from 11 days to 5 to 6 days:

1. Isolation from the enrichment culture by streaking onto the surface of lithium chloride-phenylethanol-moxalactam (LPM) plating mediun in addition to the usual modified McBride agar medium.

2. Elimination of the alkali (KOH) pretreatment before streaking onto modified McBride agar. This pretreatment will also not be done in conjunction with the LPM medium.

3. Reduction of the enrichment culture incubation time from 7 days to 2 days. Hence, the enrichment culture will be sampled at both 1 and 2 days only.

. Data show that no sensitivity is lost by reducing the 7-day enrichment to 2 days if the LPM plating medium is used in addition to the currently used modified McBride agar medium. Comparative studies have been conducted by FDA in which a variety of foods were "spiked" with known numbers of healthy and heat-injured *L. monocytogenes* over a broad range of decimal dilutions. Comparisons of recovery between the 7-day enrichment plated onto McBride agar (as currently done by FDA) and a 2-day enrichment plated onto both McBride and LPM agars show essentially no differences in recovery efficiency.

In addition, FDA has made the following minor modifications:

1. Provision for the optional use of a concave mirror for the Henry oblique illumination system according to the preference of the observer; the obliquely illuminated colony may be viewed unaided or with low power microscopy. The discretional use of positive and negative control colonies to "tune" the observer's eyes is recommended.

2. Inclusion of references to rapid methods in the BAM, but these methods are not described in detail. They are mentioned solely as optional supplemental methods that give advance warning or identification of pathogenic and/or nonpathogenic *Listeria*. They are not intended in any way to be substituted for any part of the BAM *Listeria* isolation procedure which is FDA's current, definitive test.

FDA notes that it is not obligated to publish in the Federal Register changes in methodology contained within the BAM (21 CFR 10.90(b)(10)). However, because of the public health ramifications associated with *L. monocytogenes*, FDA believes that it is the public interest to provide notice in the Federal Register of the revised methodology for isolating *L. monocytogenes* and is therefore publishing this revised method.

Dated: October 26, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

FDA BACTERIOLOGICAL ANALYTICAL MANUAL

Chapter 29. *Listeria* Isolation

(Revised 13 October 1988)

Joseph Lovett and A.D. Hitchins

The ninth edition of *Bergey's Manual of Determinative Bacteriology* (1) lists eight species in the genus *Listeria: L. monocytogenes, L. innocua, L. seeligeri, L. welshimeri, L. ivanovii, L. grayi, L. murrayi,* and *L. denitrificans*. Recently, *L. dentrificans* has been allotted to a new genus, *Jonesia* (2). Differentiation of the seven accepted species is possible by Table 1. Stuart and Welshimer (3) have proposed a new family, *Listeriaceae*, to contain two monospecific genera, *Listeria* and *Murraya*. Under this classification system, *L. monocytogenes* would contain a heterogeneous group of organisms distinguishable from *Murraya* spp. by their inability to ferment mannitol. The genus *Murraya* would

contain two subspecies, *M. grayi* ssp. *grayi* and *M. grayi* ssp. *murrayi*, distinguishable by the ability of *M. grayi* ssp. *murrayi* to reduce nitrates. In this chapter we list the two species as they appear in the ninth edition of Bergey's Manual (1). Two groups within *L. monocytogenes*, the hemolytic pathogenic strains and the nonhemolytic nonpathogenic strains, were readily apparent. Nonpathogenic *L. monocytogenes* (4) became known as *L. innocua* from the Latin word harmless. Two other nonpathogenic species, *L. welshimeri* and *L. seeligeri* (5), are now recognized.

The most recently described species is *L. ivanovii* (6), a strongly hemolytic genomic group formerly called *L. monocytogenes* serovar 5 and *L. bulgarica*. It is associated with animal pathology and is rarely isolated from human sources. Only *L. monocytogenes* is consistently associated with human illness. Both *L. ivanovii* and *L. monocytogenes* are pathogenic for mice.

The classical tests for *Listeria* pathogenicity are the Anton test (rabbits), inoculation of mice, and inoculation of embryonated eggs (7). The mouse test, using intraperitoneal (i.p.) injection is most frequently used and is described later in this chapter. Recently, the immunocompromised mouse model of Stelma *et al.* (8) has become available. It is recommended because of its greatly improved sensitivity. Animal confirmation of *L. monocytogenes* pathogenicity is not routine for clinical isolates and is optional for regulatory isolates. An isolate should be identified as *L. monocytogenes* if it meets all the other criteria outlined in this chapter.

Table 2 contains the information relating to serological characterization of *Listeria* species. Most of the *L. monocytogenes* isolates from patients and the environment are type 1 or 4. More than 90% of *L. monocytogenes* isolates can be serotyped by using commercial (Difco) sera. All the nonpathogenic species, except *L. welshimeri*, share one or more somatic antigens with *L. monocytogenes*. Serotyping alone without thorough characterization, therefore, is not adequate for identification of *L. monocytogenes*.

TABLE 1.—DIFFERENTIATION OF LISTERIA SPECIES

Species	Hemolytic (Beta)	Nitrate reduction	Utilization			Sheep blood stab	Virulence (mouse test)
			Mannitol	Rhamnose	Xylose		
L. monocytogenes	+	−	−	+	−	+	+
L. invanovii	+	−	−	−	+	+	+
L. innocua	−	−	−	V*	−	−	−
L. welshimeri	−	−	−	V*	+	−	−
L. seeligeri	+	−	−	−	+	+	−
L. grayi	−	−	+	−	−	−	−
L. murrayi	−	+	+	V*	−	−	−

* V, variable.

TABLE 2.—SEROLOGY OF LISTERIA SPECIES

Species	Serotype
L. monocytogenes	1/2A, 1/2B, 1/2C, 3A, 3B, 3C, 4A, 4AB, 4B, 4C, 4D, 4E, "7".
L. invanovii	5.
L. innocua	4AB, 6A, 6B, Un*.
L. welshimeri	6A, 6B.
L. seeligeri	1/2B, 4C, 4D, 6B, Un*.

* Un, undefined.

Of the biochemical tests, the rhamnose and xylose fermentation patterns are essential for differentiating *Listeria* species. Exceptions are *L. monocytogenes* and *L. innocua*, both of which do not ferment xylose. These two species can be separated, however, by the absence of hemolytic activity in *L. innocua*, as demonstrated by sheep blood agar stab or the CAMP test, described below. *L. seeligeri*, on the other hand, may be slightly hemolytic on sheep blood agar. Because it shares antigens with *L. monocytogenes*, it might be incorrectly identified without the xylose-rhamnose reactions and/or mouse pathogenicity. The importance of doing a complete characterization of each isolate cannot be overemphasized. Partial characterization, although accurately done, may be misleading.

The *C*hristie-*A*tkins-*M*unch-*P*eterson (CAMP) test (Table 3 and Figure 1) is useful in confirming species. The test is performed by streaking a *beta*-hemolytic *Staphylococcus aureus* and a *Rhodococcus equi* culture in parallel and diametrially opposite to each other on a sheep blood agar plate, with several test cultures streaked parallel to one another, but at right angles to and between the *S. aureus* and *R. equi*. After incubation at 35° C for 24–48 h, the plates are examined for hemolysis. *L. monocytogenes* hemolysis is enhanced in the zone of influence of the *S. aureus* streak; *L. ivanovii* hemolysis is enhanced near the *R. equi* streak, and *L. seeligeri* is hemolytic near the *S. aureus* streak. The other species remain nonhemolytic. Hemolysis is more easily read when the blood agar is thinner than usual. The *L. monocytogenes* reaction is often optimal at 24 h rather than 48 h. In order to obtain enough *R. equi* to give a good streak of growth, the inoculum slant culture usually requires more than 24-h incubation. Use of known control *Listeria* species on a separate sheep blood agar plate is recommended. Sheep blood agar plates should be as fresh as possible.

TABLE 3.—CAMP TEST REACTIONS OF *Listeria* Species

Species	*Hemolytic reaction*	
	Staphylococcus aureus	Rhodococcus equi
L. monocytogenes	x+	x−
L. ivanovii	x−	x+
L. innocua	x−	x−
L. welshimeri	x−	x−
L. seeligeri	x+	x−

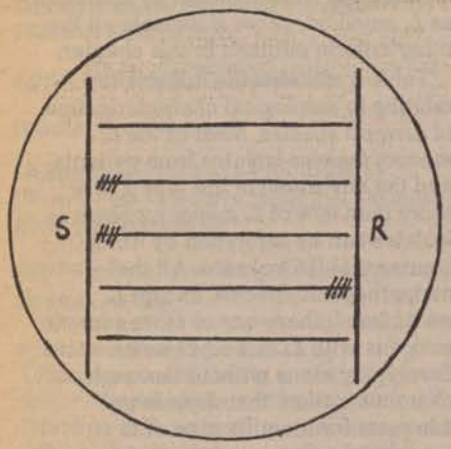

Figure 1. CAMP test for *Listeria monocytogenes:* Inoculation pattern of the sheep blood agar plate. Horizontal lines represent streak inoculations of 5 test strains. Vertical lines represent streak inoculations of *Staphylococcus aureus* (S) and *Rhodococcus equi* (R). Hatched lines indicate (diagrammatically only) the locations of hemolysis enhancement regions.

Refrigeration at 4 °C is recommended for handling, storing, and shipping materials to be analyzed for *L. monocytogenes,* which will grow, although slowly, at this temperature. However, if the test laboratory sample is already frozen, it should be kept frozen until it is ready for analysis.

A. Equipment and Materials

1. Balance (gram range)
2. Cover slips, glass
3. Erlenmeyer flask, 500 ml
4. Fermentation tubes (Durham)
5. Grease pencil or magic marker
6. Incubators, 30 and 35 °C
7. Immersion oil
8. Inoculating loops
9. Inoculating needle
10. Microscope slides
11. Needle, 23 gauge, ⅜ inch
12. Phase microscope with oil immersion objective
13. Petri plates
14. Pipets, 25, 10, and 1 ml
15. Tubes, 16 x 125 mm, screw-cap
16. Blender and jars or stomacher and stomacher bags
17. Syringe, tuberculin, sterile, disposable
18. Dissecting regular or low power microscope with illuminator

B. Media and Reagents (*See* Formulations at end of This Chapter)

(*Note:* Alternative Companies may be Used When the Products Are Equivalent.)

1. Acetic acid, 5 N
2. Acriflavin HCl (Sigma)
3. Agar (Difco Bacto)
4. *alpha*-Naphthylamine
5. *alpha*-Naphthol, 5% in absolute ethanol
6. Blood agar base No. 2 (Oxoid)
7. Cycloheximide (Sigma)
8. Sheep blood, defibrinated
9. Ethanol, absolute
10. Fluorescent antibody (FA) buffer (Difco)
11. Glycine anhydride (Sigma)
12. Gram stain kit
13. Hydrogen peroxide solution, 3% (R18)
14. KOH, 40% solution (R77)
15. *Listeria*-typing sera set (Difco)
16. Lithium chloride (Sigma)
17. Moxalactam (Sigma)
18. Nalidixic acid (sodium salt) (Sigma)
19. NaCl, physiological saline solution, 0.85% (R76)
20. Nutrient broth (M101)
21. Phenylethanol agar (Difco)
22. Purple carbohydrate fermentation broth base (M116), containing 0.5% solutions of dextrose, esculin, maltose, rhamnose, mannitol, and xylose
23. SIM motility medium (Becton Dickinson Microbiology Systems:BDMS)
24. Sulfanilic acid (crystal)
25. Trypticase soy broth (M137)
26. Trypticase soy agar (M136)
27. Tryptose (Difco Bacto)
28. Triple sugar iron (TSI) agar (M134)
29. Yeast extract (BDMS)

C. Enrichment Procedure

Care should be taken to make the sample representative of the food's outer surface as well as its interior.

Add 25 ml liquid or 25 g cream or solid test material to 225 ml enrichment broth (EB) in blender or stomacher. Blend or stomach as required for thorough mixing. Incubate EB culture in blender jar or stomacher bag, or transfer to 500 ml Erlenmeyer flask. Incubate EB culture for 2 days at 30°C.

D. Isolation Procedure

At 24 h and at 2 days, streak EB culture onto modified McBride agar (MMA) and onto *L*ithium chloride-*P*henylethanol-*M*oxalactam (LPM) agar. Incubate MMA plates at 30°C for 48 h and LPM plates at 30°C for 48 h. Examine MMA plates for suspect colonies by using beamed white light powerful enough to illuminate plate well, striking plate bottom at 45° angle (Figure 2). When examined in this oblique-transmitted light from an eye position directly above the plate (i.e., at 90° to the plate) either directly or via a low power microscope or dissecting microscope (with mirrors detached), colonies of *Listeria* species appear blue-gray to blue on MMA. On LPM plating medium the colonies appear sparkling blue (bluish crushed glass) or white. The use of positive and negative control colonies on MMB and LPM (not the test plates) to attune the observer's eyes is recommended. Although there are variations in the components of the optical systems used, the important points are the 45° angle of incident light and the 90° angle of emergent light. Pick 5 or more typical colonies to trypticase soy agar with 0.6% yeast extract (TSA-YE), streaking for isolated colonies. Incubate TSA-YE plates at 30°C for 24 h or until growth is satisfactory.

E. Identification Procedure

Isolates must be identified by the following classical tests (E1–E13). Rapid kits are available to facilitate biochemical testing to genus level (see E14). In addition, there are now rapid novel methods available (see section J) employing monoclonal antibodies and gene probes which provide advance indication of the presence of *Listeria* species (genus only) in 48-h samples of the enrichment broth or of *L. Monocytogenes* colonies on the isolation agar (these tests are optional).

1. Examine TSA-YE plates for typical colonies. Using the oblique illumination system (Henry illumination) already described, the colonies will have a similar appearance to that described for MMB (section D). Again, the use of known controls on TSA-YE is recommended.

2. Pick a typical colony and examine by wet mount, using 0.85% saline for suspending medium and oil immersion objective of phase-contrast microscope. Be sure to choose a colony with enough growth to make a fairly heavy suspension; emulsify thoroughly. If too little growth is used, the few cells

present will stick to the glass slide and appear nonmotile. *Listeria* species appear as slim, short rods with slight rotating or tumbling motility. Always compare with known culture. Cocci, large rods, or rods with rapid, swimming motility are not *Listeria* species.

3. Test typical colony for catalase. *Listeria* species are catalase-positive.

4. Gram stain 16- to 24-h cultures. All *Listeria* species are small, Gram-positive rods, but Gram stain reaction can be variable with older cultures.

5. Pick a typical colony to a tube of trypticase soy broth supplemented with 0.6% yeast extract (TSB-YE) for inoculating biochemicals and fermentations. Incubate at 35°C for 24 h. This culture may be kept at 4°C for several days and used as inoculum.

6. Inoculate heavily (from a TSA-YE colony) sheep blood agar by stabbing plates that have been poured thick and dried well (check for moisture before using). Draw grid of 20–25 spaces on plate bottom. Stab one culture per grid space. Always stab positive controls (*L. ivanovii* and *L. monocytogenes*) and a negative control (*L. innocua*). Incubate for 48 h at 35°C.

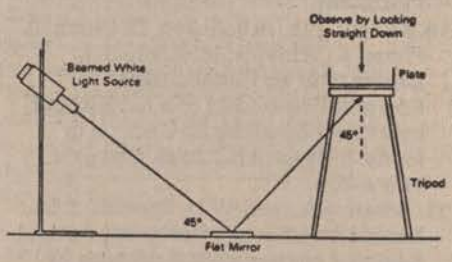

Figure 2. Examination of plates for suspect colonies of *Listeria* species. Light source used, Bausch & Lomb Nicholas Illuminator, Cat. No. 31–33–05–28; *see* a current Fisher Catalog. Ref. Seeliger, H.P.R., 1961, Listeriosis, Hafner Publishing Co., New York, NY. Note: some observers prefer a concave mirror.

7. Examine blood agar plates containing culture stabs by using a bright light. *L. monocytogenes* and *L. seeligeri* produce a slightly cleared zone around stab. *L. innocua* shows no zone of hemolysis, whereas *L. ivanovii* produces as well-defined zone of clearing around stab. Do not try to differentiate species at this point, but note nature of the hemolytic reaction.

8. Using the TSB–YE culture, inoculate urea agar slant by covering the slant well without stabbing the butt. Incubate at 35 °C for 5 days. Observe daily for development of a purple color (a positive test). *Listeria* species do not hydrolyze urea and no color should develop.

9. Nitrate reduction test. To perform this test, use a TSB–YE culture to inoculate nitrate broth. Incubate at 35 °C for 5 days. Add 0.2 ml reagent A, followed by 0.2 ml reagent B (*see* Media No. 6 at end of this chapter). A red color indicates the presence of nitrite, i.e., nitrate has been reduced. If no color develops, add powdered zinc and let stand 1 h. A developing red color indicates that nitrate is still present and has not been reduced. Only *L. murrayi* reduces nitrates.

As an alternative procedure, add 0.2 ml reagent A followed by 0.2 ml reagent C. An orange color indicates reduction of nitrate. If not color develops, add 0.2 ml cadmium reagent. The development of an orange color indicates unreduced nitrate. This procedure eliminates the use of the carcinogen *alpha*-naphthylamine.

10. Inoculate SIM motility medium from TSB–YE. Incubate for 7 days at room temperature. Observe daily. *Listeria* species are motile, giving a typical umbrella-like growth pattern.

11. Inoculate an MR–VP medium tube, using the TSB–YE culture. Incubate at 35 °C for 48 h. Remove 1 ml to a clean tube and add 0.6 ml *alpha*-naphthol solution followed by 0.2 ml 40% KOH solution. Shake and examine. A strong red color indicates a positive test. Incubate remaining culture for additional 2 days. Add methyl red to tube; it should turn red for a positive test. *Listeria* species are both MR- and VP-positive.

12. Using the TSB–YE culture, inoculate TSI by streaking slant and stabbing butt. Incubate up to 5 days at 35 °C *Listeria* species give an acid slant and an acid butt, but no H_2S.

13. From TSB–YE culture, inoculate the following carbohydrates set up as 0.5% solutions in purple carbohydrate broth: dextrose, esculin, maltose, rhamnose, mannitol, and xylose. Incubate 7 days at 35 °C. *Listeria* species produce acid with no gas or no reaction. Consult Table 1 for xylose-rhamnose reactions of *Listeria* species. All species should be positive for dextrose, esculin, and maltose. All *Listeria* species except *L. grayi* and *L. murrayi* should be mannitol-negative.

14. Purified isolates with known hemolytic reactions can be rapidly identified (to *genus* level only) using the commercial kits 20 S™ (Analytical Products, Plainview, N.Y. USA) and Gram Positive Identification card (Vitek Systems, McDonnell Douglas, Hazelwood, MO). The later kit is used in conjunction with the Vitek Automicrobic System.

F. Serology

This test is used when epidemiological considerations are crucial. Use TSB–YE culture to inoculate tryptose broth. Make two successive transfers of cultures incubated in tryptose broth for 24 h. at 35 °C. Make a final transfer to two tryptose agar slants and incubate 24 h. at 35 °C. Wash both slants in a total of 3 ml Difco FA buffer and transfer to sterile 16 x 125mm screw-cap tube. Heat in water bath at 80 °C for 1 h. Spin at 1600 x T3g for 30 min. Remove 2.2–2.3 ml of supernatant fluid and resuspend pellet in remainder of buffer. Follow manufacturer's recommendations for sera dilution and agglutination procedure. If flagellar (H) and sub-factor (0) serotyping is required, the procedures can be obtained from the Division of Microbiology, FMMD Branch, FDA, 200 C Street, SW., Washington, DC 20204.

G. Mouse Pathogenicity (Optional)

Grow isolate for 24 h at 35°C in TSB-YE. Transfer to two tubes of TSB-YE for another 24 h at 35°C. Place a total of 10 ml culture broth from both tubes into 16 x 125 mm tube and spin at 1600 x *g* for 30 min. Discard supernatant and resuspend pellet in 1 ml 0.85% saline diluent. This suspension will contain approximately 10^{10} bacteria/ml and the actual concentration should be determined by a pour or spread plate count. Inject (i.p.) 16- to 18-g Swiss white mice (5 mice/culture) with 0.1 ml of the concentrated suspension. Each mouse will receive 10^9 bacterial cells. Observe for death over a 7-day period. Nonpathogenic strains will not kill, but 10^9 pathogenic cells will kill, usually within 5 days. This test should be controlled with known pathogenic and nonpathogenic strains.

H. CAMP Test. CAMP Test Cultures of *S. Aureus* and *R. Equi* Are Available From the Division Microbiology, FMMD Branch, FDA, 200 C Street, S.W, Washington, DC 20204.

Streak *beta*-hemolytic *S. aureus* (CIP 5710 or NCTC 7428) and *R. equi* (NCTC 1621) vertically on sheep blood agar. Separate vertical streaks so that test strains may be streaked horizontally between them without quite touching them. After 24 and 48 h incubation at 35°C, examine plates for hemolysis in the zone of influence of the vertical streaks. Figure 1 shows the arrangement of the streak cultures on a CAMP plate. *L. monocytogenes* hemolysis is enhanced in the vicinity of the *S. aureus* streak; *L. invanovii* hemolysis is enhanced in the vicinity of the *R. equi* streak; and hemollysis of *L. seeligeri* is

enhanced near the *S. aureus* streak. The other species remain nonhemolytic in this test. The CAMP test differentiates *L. ivanovii* from *L. seeligeri* and can differentiate a weakly hemolytic *L. seeligeri* (that may have been read as nonhemolytic) from *L. welshimeri*. Isolates giving reactions typical for *L. monocytogenes* except for the hemolysin production should be CAMP-tested before they are identified as nonhemolytic *L. innocua*. (A factor easily prepared from *S. aureus* cultures can be used to enhance hemolysis by *L. monocytogenes* and *L. seeligeri* in sheep blood agar plates.)

I. Interpretation of Analyses Data for Speciation

All *Listeria* spp. are small Gram-positive rods that demonstrate motility in wet mount and in SIM. They are catalase-positive, do not hydrolyze urea, and produce acid slant and acid butt in TSI without production of H_2S. They utilize dextrose, esculin, and maltose, and some species utilize mannitol, rhamnose, and xylose with production of acid. All species give +/+ reactions in MR-VP broth. An isolate utilizing mannitol with acid production is *L. grayi L.* or *murrayi*. Nitrate reduction differentiates between the two because only *L. murrayi* reduces nitrate.

L. monocytogenes. *L. ivanovii*, and *L. seeligeri* produce hemolysis in sheep blood stabs and are consequently CAMP test-postive. Of the three, only *L. monocytogenes* fails to utilize xylose and is positive for rhamnose utilization. The difficulty in differentiating *L. ivanovii* from *L. seeligeri* can be resolved by the CAMP test. *L. seeligeri* shows enhanced hemolysis at the *S. aureus* streak. *L. ivanovii* shows enhanced hemolysis at the *R. equi* streak. Of the nonhemolytic species, *L. innocua* may give the same rhamnose-xylose reactions as *L. monocytogenes* but is negative in the CAMP test. *L. innocua* is the only species that sometimes gives negative results for utilization of both rhamnose and xylose. *L. welshimeri* that is rhamnose-negative may be confused with a weakly hemolytic *L. seeligeri* unless resolved by the CAMP test.

After all other results are available, the serotyping of *Listeria* isolates becomes meaningful. Biochemical, serological, and pathogenicity data are summarized in Tables 1–3. All data collection must be completed before speciation.

J. Rapid Presumptive Identification Methods (Optional)

Several rapid methods are available for identifying *Listeria* isolates to genus or species (*L. monocytogenes*) level. These methods can accelerate the identification process. The methods are supplementary to the conventional procedures and are not intended as substitutes for them since their reliability and acceptability has not yet been fully evaluated by widespread use. Details of the methods can be found in the provided references.

1. Identification in enrichment culture. Members of the genus *Listeria* can be identified in the 48-h enrichment broth culture by using a commercial ELISA kit (Organon Teknika Corp., Durham, NC) (9) or a radiolabeled DNA probe hybridization kit (GeneTrak, Framingham, MA) (10). The genus *Listeria* can be detected directly in enrichment broths containing esculin and iron (11).

(2) Identification of colonies on isolation agar. Colonies of *L. monocytogenes* on LPM agar can be identified by using an FDA-developed radiolabeled gene probe that is specific for a DNA sequence located either within or close to a hemolysin gene (12). Colonies of *Listeria* spp. can be recognized on an esculin and iron selective medium (Oxford formulation) which is marketed by Oxoid Ltd., Basingstoke, Hampshire, U.K.

K. Quantification (optional)

There are no official methods of quantification. However, if a sample is directly implicated as being a cause of foodborne listeriosis, an attempt should be made to quantitate *Listeria* prior to enrichment by direct plate count (on both MMB and LPM) and/or by MPN procedure using EB. Such data would be useful in estimating infectious-dose values.

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Chapter 29. Media Supplement

1. Sheep Blood Agar

Blood agar base (Oxoid No. 2)	93 ml
Sheep blood, defibrinated	5 ml

Rehydrate and sterilize as recommended by manufacturer. Agar and blood should both be at 45–46°C before adding blood and pouring plates. Sheep blood agar plates are available commercially.

2. Purple Carbohydrate Fermentation Broth Base (Ml 16)

Purple broth base (BBL)	15 g
Distilled water	900 ml

Add purple broth base to distilled water. Dispense 9 ml to 16×125 mm tubes containing a Durham tube.

Autoclave at 121°C for 15 min. Prepare all carbohydrates, except esculin, as sterile 5% solutions. Filter-sterilize. Add 1 ml carbohydrate solution to 9 ml broth base to yield 0.5% carbohydrate in broth.

Add esculin directly into base broth to make a 0.5% solution and autoclave 15 min at 115°C. A 5% solution of esculin at room temperature is a gel that cannot be pipetted.

3. Enrichment Broth (EB), pH 7.3

TSB–YE (*see* No. 11, below) supplemented with:

Acriflavin HCl (Sigma)	15 mg/L
Nalidixic acid (sodium salt) (Sigma)	40 mg/L
Cycloheximide (Sigma)	50 mg/L

Add the three supplementary ingredients aseptically to TSB–YE after autoclaving and just before use. Make acriflavin and naladixic supplements as 0.5% stock solutions in distilled water. Make cycloheximide supplement as 1.0% stock solution in a 40% solution of ethanol in water. Filter-sterilize all three supplementary ingredients. Add 0.68 ml acriflavin stock solution, 1.8 ml nalidixic stock solution, and 1.15 ml cycloheximide stock solution to 225 ml TSB–YE to achieve the stated amounts in mg/L. EB is commercially available. (*Note*: Cycloheximide is very toxic. Care should be exercised in its disposal, especially if large volumes of EB (and MMA) are used. Refer to a current edition of the Merck Index (Merck Co. Inc., Rahway NJ) for information on its stability properties in relation to disposal methods.)

4. Modified McBride Agar (MMA), pH7.3

Phenylethanol agar (Difco)	35.5 g
Glycine anhydride (Sigma)	10.0 g
Lithium chloride (Sigma)	0.5 g
Cycloheximide (add *after* autoclaving)	200.0 mg
Distilled water	1 liter

Heat to boiling to dissolve agar and dispense into bottles. Autoclave at 121°C for 15 min. Store in refrigerator. Melt and temper agar, and then add cycloheximide (filter-sterilized) before pouring plates. These plates may be stored in refrigerator for 1 week. Do not dry plates. Commercial dehydrated MMA with glycine anhydride is not available.

5. MR–VP Medium (M92)

MR–VP reagents

Methyl red. 0.1 g methyl red in 300 ml 95% ethanol made up to 500 ml in distilled water.

alpha-Naphthol solution. 5% *alpha*-Naphthol in absolute ethanol.

KOH solution. 40% W/V KOH in distilled water.

6. Nitrate Reduction Medium—Nutrient Broth (M101) with 1.0 g/L Potassium Nitrate (M96)

Reagent A. Dissolve 0.5 g *alpha*-naphthylamine in 100 ml 5 N acetic acid by gently heating. Prepare 5N acetic acid by adding distilled water to 28.7 ml of glacial acetic acid (17.4 N) to give a final volume of 100 ml.

Reagent B. Dissolve 0.8 g sulfanilic acid in 100 ml 5*N* acetic acid by gently heating.

Reagent C. Dissolve 1 g *alpha*-naphthol in 200 ml acetic acid.

Zinc powder. For nitrate reduction test, follow directions described in this chapter under E–9.

Cadmium reagent. Place zinc rods in 20% solution of cadmium sulfate for several hours. Draw off precipitated cadmium and add to 1 N HCl.

7. SIM Motility Medium (BBL)

Rehydrate and sterilize according to manufacturer's instructions. Add 6 ml medium per 16 x 125 mm screw-cap tube.

8. Triple Sugar Iron (TSI) Agar (M134)

Use either BBL or Difco TSI, prepared per manufacturer's instructions. Streak and stab butt.

9. Tryptose Broth and Agar for Serology

Difco Bacto tryptose	20 g
NaCl, 0.85% solution	8.5 g
Dextrose	1 g
Agar	15 g
Distilled water	1 liter

For broth, omit agar from formulation.

10. Trypticase Soy Agar with 0.6% Yeast Extract (TSA–YE)

Trypticase soy agar (BBL)	40 g
Yeast extract (BBL)	6 g
Distilled water	1 liter

11. Trypticase Soy Broth with 0.6% Yeast Extract (TSB–YE)

Trypticase soy broth (BBL)	30 g
Yeast extract (BBL)	6 g
Distilled water	1 liter

12. Urea Hydrolysis Medium

Agar	1.5 g
Distilled water	90 ml
Urea agar concentrate (Difco)	1 tube (10 ml)

Add agar to distilled water and heat to boiling to dissolve. Autoclave at 121°C for 15 min. Temper agar to 50–55°C and aseptically add contents of one 10-ml tube of urea agar concentrate. Mix thoroughly. Dispense to sterile tubes and slant generously.

13. Lithium Chloride-Phenylethanol-Moxalactam (LPM) Medium

Phenylethanol agar (Difco)	35.5 g
Glycine anhydride (*Note*: not glycine)	10 g
Lithium chloride	5 g
Moxalactam stock solution, 1% in pH 6.0 phosphate buffer	2 ml
Distilled water	1 liter

Sterilize the medium (without moxalactam) at 121°C for 15 min. Cool to 48–50°C and add filter-sterilized moxalactam solution.

Moxalactam stock solution consists of 1 g of moxalactam salt (ammonium or sodium) in 100 ml of 0.1 M potassium phosphate buffer pH 6.0. Store the filter-sterilized stock solution frozen in 2-ml aliquots.

Moxalactam (E. Lilly Co.) is retailed by Sigma Chemical Co. The LPM medium is most effective in the Henry illumination system when poured thin, i.e., 12–15 ml per standard petri dish. The greater tendency of this agar to dry is avoided by refrigeration and/or rapid use of the plates. LPM basal medium is commerically available as a powder.

[FR Doc. 88–25236 Filed 10–27–88; 3:54 pm]

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federal register

Tuesday
November 1, 1988

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; Boeing Model 737 Series Airplanes; Final Rules and Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-66-AD; Amdt. 39-6059]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD), applicable to certain Boeing Model 737 series airplanes, which currently require external inspection of the skin at certain fuselage lap joints for cracks, corrosion, and delamination and repair, if necessary. This amendment retains certain current requirements, but increases the area to be inspected and intensifies the methods of inspection. In addition, this amendment imposes a cabin differential pressure restriction to reduce fuselage skin stresses, thus increasing the level of safety until required initial eddy current inspections are completed. This action is prompted by reports of numerous cracks found during inspections of airplanes that have accumulated more than 40,000 landings. This condition, if not corrected, could result in rapid decompression of the airplane.

DATES: Effective November 21, 1988.

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

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Mudrovich, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 87-21-08, Amendment 39-5752 (52 FR 38395; October 16, 1987), and telegraphic AD T88-10-51, applicable to certain Boeing Model 737 series airplanes, to require external and internal inspections of the skin along certain fuselage skin lap joints and bonded doublers for cracks, corrosion, and delamination; repair, if necessary; and eventual modification, was published in the Federal Register on May 31, 1988 (53 FR 19858).

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

In addition to requirements that were proposed in the Notice of Proposed Rulemaking (NPRM) this final rule includes several additional requirements, discussed in detail below, which were not subject to notice and comment.

The Air Transport Association (ATA) of America, the manufacturer, and eight airlines requested that the requirement for use of a 10 power magnifying glass in the external inspections be made optional, as necessary, due to the eye strain involved and concentration required which might be detrimental to the inspection. The FAA concurs, but has further determined that a more reliable means of detecting small cracks is required and has, therefore, substituted high frequency eddy current inspections for the proposed visual inspections for cracks, as discussed below. With respect to disbond and corrosion inspections, the FAA has further determined that a 10 power magnifying glass would be of little benefit because evidence of these problems can be reliably detected with the unaided eye. The final rule has been revised accordingly.

Several commenters also requested that paint stripping be required only to confirm positive findings. Since issuance of the NPRM, one operator found a 12-inch crack in one bay of skin along the upper rivet row of the Stringer (S)-14 lap splice, and 13 fasteners with cracks emanating from both sides in the critical upper row in the bay directly aft. This cracking was discovered while repainting the airplane and not as a result of any inspections required by previous AD's. This area had been visually inspected on a painted surface in accordance with AD T88-09-51 just 6 months and approximately 700 landings prior to discovery. Based on this incident, and the human factors difficulties associated with the performance of these inspections, the FAA has determined paint stripping is required unless the fastener is clearly visible through the paint and there are no more than 2 coats of paint on the airplane skin. The final rule has been revised accordingly. In addition, a Note has been added to the final rule to emphasize that inspections performed in accordance with existing AD's where paint stripping was not accomplished are not to be given credit for the purpose of determining compliance times with these requirements unless they were performed in accordance with the above criteria.

Additionally, one airline requested the use of sanding as an alternative to paint stripping. The FAA does not concur that the use of sanding is an adequate alternate method since the sanding process may adversely effect the detection of cracks. The FAA has determined that plastic bead paint stripping may also hide the evidence of cracking. For these reasons the final rule specifically requires chemical stripping.

The commenters objected to the use of a 5% corrosion limit for deferring repairs due to the inadequacy of equipment being used and the tolerance of the skin thickness. After further discussion with the manufacturer and certain non-destructive test (NDT) inspectors, the FAA has determined that a 10% corrosion limit will provide an acceptable level of safety, while allowing for material and equipment tolerances. The final rule has been revised accordingly.

The manufacturer requested that the threshold for the external inspections of the lap joints be changed from 40,000 landings to 45,000 landings for airplanes line number 001 through 291, based on a report that no cracks had been found on airplanes that had accumulated fewer than 47,000 landings. The FAA does not concur that the threshold for airplanes line number 001 through 291 should be extended to 45,000 landings because of a report of cracking on one airplane at 44,000 landings. This threshold remains at 40,000 landings in the final rule. The manufacturer also requested these inspections be deleted for airplanes line number 292 through 464 based on a lack of adverse service experience and the change in lap joint design for the later line number airplanes. The FAA concurs that external inspections for airplanes line number 292 through 464 can be deleted based on the service history for these airplanes, and the fact that at line number 292, Boeing made a complete redesign of the lap splice which resulted in nearly 50% reduction in the material stress level of the joint. The final rule has been revised accordingly.

The manufacturer and one operator requested that the initial compliance time be extended to 1,500 landings for the external inspections of the lap joints. The FAA concurs. Based on the fact that AD T88-10-51 required an eddy current inspection of the lap joints at Stringers 4 and 10 and a detailed visual inspection of the other lap joints, the FAA has determined that a 1,500 landing inspection threshold will provide an

acceptable level of safety. In addition, the FAA has added a requirement to operate affected airplanes in accordance with a fuselage pressure differential restriction until the initial inspections are accomplished. This reduces skin stresses and provides for an increased level of safety, further supporting the 1,500 landing compliance requirement. The final rule has been revised accordingly.

The manufacturer requested that the threshold for the external inspections of the skin along S–17 be changed from 40,000 to 45,000 landings for airplanes line number 001 through 291 because this stringer area is less critical than the lap joint, and to 60,000 landings for airplanes line number 292 through 464 based on the lack of adverse service experience in this area. The FAA does not concur with the first request because there have been reports of significant cracking on airplanes in the first group with as few as 43,000 landings. The second group of airplanes has an improved bonding process and there is no history of cracking in this group. Therefore, the FAA has revised the final rule to reflect a threshold of 60,000 landings for airplanes line number 292 through 464, while maintaining the proposed threshold for the earlier group of airplanes.

The manufacturer and two operators requested an increase in the initial compliance time for the external inspections of the skin along S–17 from 500 to 1,500 landings since this area of the fuselage is less critical than the lap joints. The FAA does not concur. While the skin at S–17 may be less critical than the lap joints, severe cracking in this area would still lead to rapid decompression of the fuselage. Particularly in light of recent reports of serious cracks, the FAA has determined that the initial compliance time of 500 landings is necessary to maintain an acceptable level of safety.

The manufacturer and three operators requested that the initial compliance time for the internal inspections on airplanes line number 001 through 291 be extended from 6 months to 24 months after the effective date of the AD for airplanes that have the external inspections accomplished at one half the required interval of 4,500 cycles or 15 months, which would maintain the structural integrity via frequent external inspections. The FAA concurs that such additional external inspections will maintain an acceptable level of safety for the interim period and the final rule has been revised accordingly.

One operator requested that the initial compliance time for the internal inspections of airplanes line number 001 through 291 be extended to the next heavy maintenance visit because it claimed the tearstraps were not disbonded. The FAA does not concur with this commenter. Due to the design of these early model lap joints and bonding techniques, the internal inspections must be accomplished, or additional external inspections performed as outlined in the previous paragraph because reports have indicated that tearstrap disbonding exists on many airplanes and the inspections are required to maintain an acceptable level of safety.

The manufacturer and one operator requested that the initial compliance time for the internal inspections of airplanes line number 292 through 464 be extended to the next heavy maintenance visit after the effective date of the final rule due to the lap joint design improvement and lack of cracking reported in this group of airplanes. The FAA concurs with the commenters and the AD has been changed to require inspection within 12,000 landings or 4 years after the effective date of the AD.

The manufacturer and one operator requested that the internal inspection of the tearstraps be limited to an area two bays above and one bay below the lap joints at S–4 and S–10, since the tearstraps adjacent to S–14, S–19, and S–25(26) are riveted to the frames, providing load transfer capability and prevention of massive disbond. The FAA concurs. The FAA has determined that this level of inspection would provide an acceptable level of safety, provided the entire panel is inspected if signs of disbond or corrosion are discovered. The final rule has been revised accordingly.

The manufacturer and one operator requested that the internal inspection between BS 259 and BS 360 be limited to the tearstraps adjacent to S–4 since forward of BS 360 the tearstraps are riveted to the frames surrounding all lap joints except at S–4, providing load transfer and prevention of massive disbond. The FAA concurs that this level of inspection would provide an acceptable level of safety and the final rule has been revised accordingly.

One operator requested that the terminating action for the inspections of the skin along S–17 and the lap joints be separated for clarity. The FAA concurs with this commenter and has revised the final rule accordingly.

Another operator commented that the terminating modification for the inspections of the skin along S–17 be optional for all airplanes affected since this area of the skin is less critical than the lap joint. The FAA does not totally concur. While the skin at S–17 may be less critical than the lap joints, severe cracking in this area would still lead to rapid decompression of the fuselage. For the reasons discussed below, however, the FAA has determined that the proposed compliance time for that aciton was excessive, and reducing the compliance time would have been beyond the scope of the Notice for this AD. Accordingly, while this final rule has been revised to make the terminating actions optional, the FAA, by separate rulemaking action, is proposing to mandate the terminating action with reduced compliance times.

An operator requested clarification of the terminating modification with respect to the tearstraps. The FAA notes that the final rule requires that tearstraps two bays above and one bay below the lap joint be assured functional by the use of mechanical fasteners where disbonding has occurred.

An operator opposed mandating the terminating action due to the average cycle time of aircraft in use by this operator. The FAA does not concur. The FAA has determined that mandating terminating action on the early airplanes, line number 001 through 291, is required to maintain safety due to: (1) the early inadequate lap joint configuration and bonding techniques; (2) a recent incident where a 15-foot long portion of skin departed an airplane in flight; (3) a recent 12-inch crack found on an airplane only 700 landings after it was inspected; and (4) a determination that long term continued airworthiness of airplanes with widespread multiple site damage cannot be assured by inspection because of the large number of these inspections and the human factors difficulties associated with the repetitious nature of the inspections. For the reasons discussed below, however, the FAA has determined that the proposed compliance time for that action was excessive, and reducing the compliance time would have been beyond the scope of the Notice for this AD. Accordingly, while this final rule has been revised to make the terminating actions optional, the FAA, by separate rulemaking action, is proposing to mandate the terminating action with reduced compliance times.

One operator requested that specific alternate methods to the eddy current inspection techniques be specified in the AD. The FAA does not concur. However, the FAA is aware that the industry is developing a sliding probe eddy current inspection technique and will review the technique upon presentation. Provisions for alternate

methods of compliance are contained in paragraph J., and requests will be approved on an individual basis, if found to be acceptable.

Based on the foregoing considerations, the FAA has determined that certain requirements which were not included in the proposed rule, must be added to the final rule in order to ensure the timely detection and proper repair of fuselage cracks. In addition to the requirement for paint stripping previously discussed, the FAA has determined that the following requirements must also be added:

- Repetitive eddy current inspections of all lap joints in addition to the detailed visual inspections originally proposed, which will increase the reliability for detection of small cracks.
- Cabin pressure differential restriction until the initial eddy current inspections are accomplished, which will reduce stresses in fuselage skins and decrease the potential for rapid decompression. This pressure differential was derived by dividing the maximum cabin pressure differential of 7.55 psi by a 1.33 safety factor. This will reduce fuselage stresses, thereby increasing the time to reach the critical crack length by an approximate factor of 3, which will provide additional safety until further action can be taken.
- Inspection of previously accomplished repairs on the skin at all lap joint and S-17 locations to ensure that these repairs were made in accordance with FAA-approved procedures, thereby assuring that the repair will not accelerate the initiation of additional cracks.
- Within 3,000 landings following any repair, replacement of all upper row fasteners in panels found to have cracks, since cracking in an area of the skin is generally indicative of widespread cracking throughout the panel, and of blind fasteners, since blind fasteners provide adequate structural integrity as an interim measure only.

Based on considerations discussed previously, the FAA has determined that the deadline for accomplishing the terminating modifications is inadequate. As discussed above, total reliance on inspections is not adequate to maintain safety. Therefore, the FAA in a companion document is proposing reduced compliance times to accomplish the modifications which will terminate the inspections of this airworthiness directive and restore the airplanes to an acceptable level of safety.

Since the issuance of the NPRM, the FAA has reviewed and approved Boeing Service Bulletin 737-53-1089, Revision 1, dated October 13, 1988, which defines the procedure for the eddy current inspection that was identified in the NPRM to be performed "in accordance with an FAA-approved procedure." The final rule has been revised to reflect the procedures in this service bulletin as an acceptable means to accomplish the required inspection. This change does not increae the scope of the final rule, nor does it increase the economic burden on any operator.

The proposed requirement to report the findings of the inspections to the Manager, Seattle Aircraft Certification Office, has been deleted from the final rule because it has been determined that this additional data is not needed.

Additional questions concerning the ongoing corrosion inspection of the lap joints have been raised. The FAA has determined that these inspections are only required to maintain an acceptable level of safety if the joint is not separated and thoroughly cleaned as described by one option in the service bulletin. The final rule has been clarified appropriately in paragraph I.

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

There are approximately 464 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 100 airplanes of U.S. registry will be affected by this AD, that those required actions set forth in the NPRM will take approximately 2,000 manhours per airplane to accomplish, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,000,000.

The FAA has determined that a situation exists that requires immediate adoption of this regulation. Therefore, it is found that notice and public procedure for requirements not previously proposed are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilites among the various levels of government. Therefore, in accordance with Exective Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

2. By superseding AD 87-21-08, Amendment 39-5752 (52 FR 38395; October 16, 1987); and Telegraphic AD T88-10-51, issued May 4, 1988, with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 001 through 464, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent rapid decompression of the airplane accomplish the following:

A. For airplanes line numbers 001 through 291, prior to the accumulation of 40,000 landings, or within 10 calendar days after the effective date of this AD, whichever occurs later, restrict all flight operations to a maximum cabin pressure differential of 5.67 psi until the inspections required by paragraph B.1., below, are accomplished.

B. 1. For airplanes line numbers 001 through 291, within the next 1,500 landings after the effective date of this AD, or prior to the accumulation of 40,000 landings, whichever occurs later, unless previously accomplished within the last 3,000 landings; and thereafter at intervals not to exceed 4,500 landings or 15 months, whichever occurs first; accomplish the requirements of paragraph C., below, along the skin at all fuselage lap joints between BS 259 and BS 1016.

2. For airplanes line numbers 001 through 464 within the next 500 landings after the effective date of this AD, or prior to the accumulation of: a. 40,000 landings for airplanes line numbers 001 through 291; or b. 60,000 landings for airplanes line numbers 292 through 464; whichever occurs later, unless previously accomplished within the last 4,000 landings; and thereafter at intervals not to

exceed 4,500 landings or 15 months, whichever occurs first; accomplish the requirements of paragraph C., below, along the skin at S–17 between BS 360 and BS 540 and between BS 727 and BS 927.

C. For airplanes identified in paragraphs B.1 and B.2, above, remove paint with an approved chemical stripper, or ensure that the fastener head is clearly visible and that no more than 2 coats of paint are on the airplane skin, prior to the inspections required by this paragraph:

1. Perform a high frequency eddy current inspection for cracks along the upper rivet line at the lap joints and along both rivet lines at S–17, in accordance with Boeing Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988, or Boeing Service Bulletin 737–53–1089, Revision 1, dated October 13, 1988, accordingly.

Note.—No credit will be given for previous inspections accomplished on a painted surface where the fastener head was not clearly visible or where more than 2 coats of paint were on the airplane skin.

2. Perform a detailed external visual inspection, using adequate lighting for evidence of corrosion or delamination. Inspect for small cracks, bulging skin between fasteners, blistered paint, dished or popped rivet heads, or loose fasteners. If evidence of corrosion or delamination is found, prior to further flight, perform a low frequncy eddy current inspection for corrosion to determine material loss, of the entire length of the affected panel, in accordance with Boeing Alert Service Bulletin 737–53A–1089, Revision 4, dated April 14, 1988, or Boeing Service Bulletin 737–53–1089, Revision 1, dated October 13, 1988.

3. Repair cracks, corrosion, and delamination prior to further flight (except as permitted by paragraph G., below), in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988, or Boeing Service Bulletin 737–53–1089, Revision 1, dated October 13, 1988. All upper row fasteners at the lap joint and both rows of fasteners at S–17 of any skin panel, in which cracks are found, must be replaced with standard protruding head solid fasteners, in accordance with the applicable service bulletin, within 3,000 cycles following the repair. Blind fasteners are to be used as an interim repair only, and replaced with protruding head solid fasteners within 3,000 cycles following installation. Repairs installed with blind fasteners prior to the effective date of this AD must be inspected for loose or missing fasteners within 1,000 cycles after the effective date of this AD and all upper row fasteners in the affected panel must be replaced with standard protruding head solid fasteners within 3,000 cycles after the effective date of the AD. Repairs of the skin installed with countersunk fasteners, at any fuselage lap joint or along S–17, prior to the effective date of the AD must be inspected and verified as FAA-approved within 1,000 cycles after the effective date of this AD. Repairs determined not to be FAA-approved, must be replaced or modified in accordance with the FAA-approved method, prior to further flight.

D. For airplanes line numbers 001 through 291, within the next 2,250 landings or within 6 months after the effective date of this AD, whichever occurs first, or prior to the accumulation of 40,000 landings, whichever occurs later, unless accomplished within the last 9,750 landings, and thereafter at intervals not to exceed 12,000 landings or 4 years, whichever occurs first, accomplish the inspections described in paragraph F., below. If the inspections required by paragraph C., above, are repeated at intervals not to exceed 2,250 landings or 7½ months, whichever occurs first, then the requirements of paragraph F., below, may be deferred until the accumulation of 7,000 landings or 24 months after the effective date of this AD, whichever occurs first.

E. For airplanes line numbers 292 through 464, within the next 12,000 landings or 4 years after the effective date of this AD, whichever occurs first, or prior to the accumulation of 40,000 landings whichever occurs later, and thereafter at intervals not to exceed 12,000 landings or 4 years, whichever occurs first, accomplish the inspections described in paragraph F., below.

F. As required by paragraphs D. and E., above, perform a detailed internal visual inspection of tearstraps (circumferential portion of the bonded waffle doubler), not mechanically fastened to the skin between BS 360 and BS 1016 two bays above and one bay below the lap joints at S–4 and S–10, and between BS 259 and BS 360 two bays above and one bay below the lap joint at S–4 for delamination and corrosion, in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988. Adequate lighting must be used for this inspection. Inspect for bulges in the doubler, white powder or a thin black line at the edges of the doubler, and missing or dished fasteners. Check for disbond by pushing outward on the skin while attempting to insert a feeler gage between the doubler and skin. If inspection areas are obscured by sealant, dirt, etc., these areas must be cleaned. If disbond or corrosion is found, inspect entire skin panel as described above in addition to one bay of the adjacent skin panel (above and below), and repair prior to further flight in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988, or Boeing Service Bulletin 737–53–1089, Revision 1, dated October 13, 1988, as appropriate.

G. If corrosion found as a result of the external inspection does not exceed 10% of the skin thickness, reinspect for corrosion in accordance with paragraph C.2. or I., of this AD, as appropriate, at intervals not to exceed 2,250 cycles or 6 months, whichever occurs first, until a repair is accomplished. If such corrosion exceeds 10% of skin thickness or if cracking is found, repair prior to further flight, in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988, for the skin along the lap joints, or Boeing Service Bulletin 737–53–1089, Revision 1, dated October 13, 1988, for the skin along S–17. Following such repair, resume inspections in accordance with paragraph C.2. or I. of this AD, as appropriate.

H. The accomplishment of the following two subparagraphs constitutes terminating action for the inspections indicated:

1. Accomplishment of the terminating repair at all lap joints between BS 259 and BS 1016, in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988, constitutes terminating action for paragraphs A., C., and F., as they apply to lap joint areas. This repair includes replacing all upper row fasteners with standard protruding head solid fasteners and assuring the tearstraps are functional 2 bays above and 1 bay below each lap joint, by the use of mechanical fasteners where disbonding of the tearstraps has occurred.

2. Accomplishment of the preventative modification as described in Boeing Service Bulletin 737–53–1089, Revision 1, dated October 13, 1988, constitutes terminating action for the requirements of paragraphs A., C., and F. as they apply to the skin at S–17.

The repair requires using standard protruding head solid fasteners, and assuring that the tearstraps are functional 2 bays above and 1 bay below S–17, by the use of mechanical fasteners where disbonding of the tearstraps has occurred, in accordance with the Structural Repair Manual.

I. For aircraft on which the procedures described in paragraph H.1., above, have been accomplished in accordance with Part IV, A.2., of Boeing Alert Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988, within 15 months after accomplishment, or within 6 months after the effective date of this AD, whichever occurs later, perform an external visual inspection of the skin for corrosion and delamination at all lap joints in accordance with that service bulletin. If corrosion is found, prior to further flight, perform a low frequency eddy current inspection of the entire length of the affected panel to determine material loss. If cracks are found, prior to further flight, perform a high frequency eddy current inspection of the entire length of the affected skin panel in accordance with the service bulletin. Repair cracks, corrosion, and delamination, prior to further flight (except as permitted by paragraph G., above), in accordance with the service bulletin. Inspections are to continue at intervals not to exceed 15 months.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway

South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 21, 1988.

Issued in Seattle, Washington, on October 27, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-25254 Filed 10-27-88; 4:55 pm]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-67-AD; Amdt. 39-6060]

Airworthiness Directives: Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which requires external inspections of the circumferential fuselage splices and internal inspections of certain bonded doublers for delamination, cracking, and corrosion. This amendment is prompted by two reports of cracking on the circumferential fuselage skin splice and several reports of delamination of the bonded doubler. This condition, if not corrected, could result in rapid decompression of the airplane.

DATE: Effective December 1, 1988.

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

FOR FURTHER INFORMATION CONTACT: Ms. Barabara J. Mudrovich, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address; FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires external inspections of the circumferential fuselage splices and internal inspections of certain bonded doublers, for delamination, cracking, and corrosion, was published in the **Federal Register** on May 31, 1988 (53 FR 19861).

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

This Notice was published concurrently with the Notice for Amendment 39-6059, Docket No. 88-NM-66-AD, which proposed similar inspection requirements for longitudinal lap joints. That final rule has been changed to require a cabin pressure differential limitation of 5.67 psi, eddy current inspection of all lap joints, and chemical paint stripping in the inspection area under certain circumstances. This final rule does not impose all these additional requirements, since the service history on the circumferential joints has not shown the same propensity for multiple site cracking. The requirement for paint stripping under certain circumstances is required, however, due to the need for increased reliability for crack detection.

The Air Transport Association (ATA) of America, the manufacturer, and eight airlines requested that the requirement for use of a 10 power magnifying glass in the external inspections be optional, as necessary, due to the eye strain involved and concentration required which might be detrimental to the inspection. The FAA concurs with the commenters and has determined that a close detailed visual inspection with the use of a 10 power magnifying glass is not justified based on the lack of service experience indicating that use of such a glass is necessary.

Several commenters also requested that paint stripping be required only to confirm positive findings. Since issuance of the NPRM, one operator found a 12-inch crack in one bay of skin along the upper rivet row of the S-14 lap splice, and cracks emanting from both sides of 13 fasteners in the critical upper row in the bay directly aft. This area had been visually inspected, with the paint intact, just 6 months and approximately 700 landings prior to discovery. Based on this incident, and the human factors difficulties associated with the performance of these inspections, the FAA has determined paint stripping is required to maintain an acceptable level of safety, unless the fastener is clearly visible through the paint and there are no more than two coats of paint on the airplane. The final rule has been revised to state more specifically when paint stripping is required.

Additionally, one airplane requested the use of sanding as an alternate to paint stripping. The FAA does not concur that the use of sanding is an adequate alternate method since the sanding process may adversely effect the detection of cracks.

The commenters objected to the use of a 5% corrosion limit for deferring repairs due to the inadequacy of equipment being used and the tolerance of the skin thickness. After further discussion with the manufacturer and certain mon-destructive test (NDT) inspectors, the FAA has determined that a 10% corrosion limit will provide an acceptable level of safety while allowing for material and equipment tolerances. The final rule has been revised accordingly.

One commenter requested that ferry flights be allowed for ferrying airplanes to a base to perform the necessary requirements. The FAA notes that paragraph E. of the final rule (paragraph G. of the Notice) provides for the issuance of special flight permits.

Three airlines requested better definition of the doublers to be inspected. The FAA concurs that more specificity is warranted. The final rule has been revised to include this identification of specific doublers that must be inspected. Because the identified doublers do not include tearstrap areas, the proposed exclusion of tearstrap areas is unnecessary and has been deleted from the final rule. This change does not increase the scope of the AD nor does it increase the economic burden on any operator.

One operator requested that specific alternate methods to the eddy current inspection techniques be specified in the AD. The FAA does not concur. However, the FAA is aware that the industry is developing a sliding probe eddy current inspection technique and will review the technique upon presentation. Provisions for alternate methods are contained in paragraph D., and requests will be approved on an individual basis, if found to be acceptable.

The manufacturer requested that the threshold for the external inspections be changed from 40,000 landings to 45,000 landings for airplanes line number 001 through 291, and to 60,000 landings for airplanes line number 292 through 464. The FAA concurs that the threshold for airplanes line number 292 through 464 can be extended to 60,000 landings, based on the improved bonding techniques used during manufacturing and service history of these airplanes. The final rule has been revised to reflect this comment. However, the FAA does

not concur that the threshold for airplanes line number 001 through 291 can be extended to 45,000 landings based on the reports of delamination in this group of airplanes.

The manufacturer and one operator requested that the initial compliance time be extended to 1,500 landings for the external inspections. The FAA does not concur since the commenters have provided no data to warrant this change and the final rule remains as proposed.

The manufacturer requested that initial compliance time for the internal inspections for airplanes line numbers 001 through 291 be extended to the next heavy maintenance visit after the effective date of the AD. The FAA does not concur. The FAA has determined that the compliance time, as proposed, represents the maximum interval of time allowable for all affected airplanes to continue to operate prior to the required inspections without compromising safety. Since maintenance schedules may vary from operator to operator, there would be no assurance that the inspection will be accomplished during that time.

The manufacturer also requested that the internal inspection requirements for airplanes line number 292 through 464 be deleted from the AD due to a lack of adverse service experience. After further review of the service experience and because of the improved bonding technique used on these airplanes, the FAA concurs with this comment and has revised the final rule accordingly.

The manufacturer and one operator requested that all requirements for inspections of the lower skin on airplanes on which the terminating modification specified in AD 82-01-09 (paragraph D. of the Notice) be withdrawn since the existing AD has proven to be adequate in maintaining structural capability of the lower skin. After further review of the service experience, the FAA has determined that the requirements for lower skin inspections are not necessary, as the requirements of AD 82-01-90 are adequate to maintain safety in this area. The final rule has been revised by deleting the proposed paragraph D.

One operator commented that internal inspections forward of BS 360 should be deleted from the AD because of a lack of adverse service experience and reduced loading in that area. Forward of BS 360, doublers around the forward entry and galley doors and along the BS 259 circumferential splice are the areas of concern to this commenter. This commenter also noted that some electrical components affecting safety of flight are mounted in the crown forward of BS 277 and required inspections in this area could interfere with these components. The FAA concurs. After further review of the structure and the related service history, the FAA has defined specific doublers to be inspected, and has determined that deleting the requirement for internal inspection of areas forward of BS 277 is appropriate. The final rule has been revised accordingly. The FAA has determined that this revision will not adversely affect safety due to structural configuration and service experience.

One operator commented that there was no terminating action for the inspections required in the proposed rule. The FAA concurs that the external inspection for cracks of the circumferential joints may be terminated upon the incorporation of protruding head solid fasteners, and has added a paragraph to the final rule to state this.

The requirement to report the findings of the inspections to the Manager, Seattle Aircraft Certification Office, has been deleted from the final rule because it has been determined that additional data is not needed.

The FAA has determined that clarification is necessary with respect to the use of blind fasteners, and the final rule has been revised to permit the use of blind fasteners for 3,000 landings following a repair. The FAA has determined that blind fasteners provide structural integrity as an interim measure, but must not be used as a long term modification.

Additionally, a statement has been added to the final rule to clarify the requirement for an eddy current inspection to be accomplished if a crack is found in a circumferential splice during visual inspections.

There are approximately 464 Model 737 series airplanes in the worldwide fleet. It is estimated that 100 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2,000 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD and U.S. operators is estimated to be $8,000,000.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that his regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Boeing Model 737 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 001 through 464, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent decompression of the airplane, accomplish the following:

A. Within 500 landings after the effective date of this AD, or prior to the accumulation of 40,000 landings for airplanes line number 001 through 291 or 60,000 landings for airplanes line number 292 through line number 464, whichever occurs later, unless previously performed within the past 4,000 landings, accomplish the following:

1. Perform a detailed external visual inspection, using adequate lighting and, where necessary, inspection aids such as mirrors and a 10x magnifying glass, of the bonded doublers around major cutouts (i.e., entry, galley, and cargo doors and overwing exits) between body station (BS) 259 and BS 1016, in accordance with Boeing Service Bulletin 737-53-1076, dated October 30, 1986, for evidence of corrosion and delamination. Inspect for small cracks (in paint and skin), bulging skin between fasteners, blistered paint, dished or popped rivet heads, or loose fasteners.

2. Perform a detailed external visual inspection along all circumferential splices between BS 259 and BS 1016 for cracks, corrosion, and delamination of accordance with Boeing Service Bulletin 737-52-1076, dated October 30, 1986. Remove paint within an approved chemical stripper prior to inspection, or assure that the fastener head is clearly visible and that no more than 2 coats of paint are on the skin. If cracks are visually

detected, perform a high frequency eddy current inspection for cracks along the rivet row the entire length of the affected panel in accordance with the FAA-approved method as described in Boeing Service Bulletin 737–53A1039, Revision 4, dated April 14, 1988. Regardless of whether cracks are found by the visual inspections required above, perform a high frequency eddy current inspection for cracks for S–10R to S–10L in accordance with the FAA-approved method described previously, along the most forward and most aft rivet row of each circumferential splice. Terminating action for the inspections required by this subparagraph, is the replacement of the most forward and most aft fastener rows with standard protruding head solid fasteners at all circumferential fuselage splices, in accordance with an FAA-approved method. If no cracks, corrosion, or delamination are found as a result of the inspections required by paragraph A.1. or A.2., above, repeat all visual and eddy current inspections at intervals not to exceed 4,500 landings or 15 months, whichever occurs first.

B. In areas where evidence of cracks, corrosion, or delamination are found as a result of the inspections required by paragraph A., above, accomplish the following:

1. If corrosion depth, as determined by an FAA-approved low frequency eddy current (LFEC) procedure, does not exceed 10% of skin thickness, conduct the repetitive external detailed visual inspections required by paragraph A., above, at intervals not to exceed 2,250 landings or 6 months, whichever occurs first, until repair is accomplished. Following the accomplishment of such a repair, continue to inspect at intervals not to exceed 4,500 landings or 15 months, whichever occurs first, in accordance with paragraph A., above.

2. If corrosion depth, as determined by an FAA-approved LFEC procedure, found by the external inspections exceeds 10% of skin thickness, or if cracks or delamination is found, repair prior to further flight, in accordance with Boeing Service Bulletin 737–53–1076, dated October 30, 1986. Following the accomplishment of such a repair, continue to inspect at intervals not to exceed 4,500 landings or 15 months, whichever occurs first, in accordance with paragraph A., above.

3. Cracks found must be repaired, prior to further flight, in accordance with an FAA-approved method. Blind fasteners may be used as an interim repair only and must be replaced with standard protruding head solid fasteners within 3,000 cycles following installation. Repairs installed with blind fasteners prior to the effective date of this AD must be inspected for loose or missing fasteners within 1,000 cycles after the effective date of this AD, and thereafter at intervals not to exceed 3,000 cycles until replaced.

C. For airplanes line number 001 through 291, within the next 4,500 landings or 15 months, after the effective date of this AD, whichever occurs first, or prior to the accumulation of 40,000 landings, whichever occurs later, unless previously performed within the last 7,500 landings, perform an internal detailed visual inspection of the bonded doublers around major cutouts (i.e., entry, galleys, and cargo doors and overwing exits) and along circumferential splices between BS 277 and BS 1016 for evidence of corrosion or delamination in accordance with Boeing Service Bulletin 737–53–1076, dated October 30, 1986. Using adequate lighting, inspect for bulges in the doubler, white powder or a thin black line at the edges of the doubler, and missing or dished fasteners. Inspect for disbond by pushing outward on the skin while attempting to insert a feeler gage between the doubler and skin. If inspection areas are obscured by sealant, dirt, etc., these areas must be cleaned. In areas where no evidence of corrosion or delamination is found, repeat the inspection at intervals not to exceed 12,000 landings or 4 years, whichever occurs first. In areas where evidence of corrosion or delamination is found, repair in accordance with the above service bulletin prior to further flight. Following such a repair, continue to inspect at intervals not to exceed 12,000 landings or 4 years, whichever occurs first.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

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

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

This amendment becomes effective December 1, 1988.

Issued in Seattle, Washington, October 27, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–25253 Filed 10–27–88; 4:55 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

(Docket No. 88-NM-160-AD)

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which would require that protruding head solid fasterners be installed in the upper row of all lap splices in the fuselage and in the two rows of Stringer 17. This action is prompted by reports of cracking on Boeing Model 737 series airplanes from which the FAA has determined that widespread multiple site cracking cannot be reliably detected over the long term by visual or other non-destructive inspection (NDI) techniques. This action is necessary to ensure that undetected widespread cracking is minimized in these fuselage skins. Cracks, if allowed to grow undetected, could lead to structural failure and rapid decompression of the airplane.

DATES: Comments must be received no later than December 12, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-160-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Mudrovich, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-160-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On October 27, 1988, the FAA issued Amendment 39-6059 (Docket No. 88-NM-66-AD), to require external visual and eddy current inspections of the skin along certain lap joints and Stringer (S)-17 and internal visual inspections of the tearstraps for corrosion, delamination, and cracks.

The Notice of Proposed Rulemaking (NPRM) (53 FR 19858; May 31, 1988) for that AD included the requirement to incorporate a terminating modificaiton. Prior to the issuance of that final rule, the FAA has determined that, for the reasons discussed below, the proposed compliance time for that action was excessive; however, reducing that compliance time would have been beyond the scope of the Notice for that AD. The terminating modificaiton, which consists of replacing the upper row of fasteners of the lap splices and the two rows of fasteners of S-17 with protruding button head fasterners was, therefore, made optional in that final rule. This NPRM proposes to mandate this modificaiton in accordance with a series of compliance times that are inversely proportional to the number of landings on the airplane. This modification is the same as the modification described in paragraph H. of the final rule referenced above.

An operator recently reported finding a 12-inch crack in the skin in the upper fastener row along S-14, and 27 fasteners with cracks emanating from both sides of the fastener holes in the two bays directly aft of the crack. These cracks were found approximately 700 landings after a detailed visual inspection performed in accordance with an earlier version of the AD. Based on this incident and extensive consultation with several fracture mechanics and aeronautical structures experts, the FAA has determined that continued airworthiness of airplanes with widespread multiple site damage cannot be assured over the long term by repetitive inspection because of the large number of required inspections and the human factors difficulties associated with the repetitious nature of the inspections. Widespread cracking, if not corrected could lead to rapid decompression of the fuselage.

Since this condition is likley to exist or develop on other airplanes of this same type design, this action proposes to require that the upper row of fasteners of the lap splices and the two rows of fasteners in S-17 be replaced with solid protruding head fasteners. Compliance times range from 6 months for airplanes with more than 70,000 landings to 36 months for airplanes with less than 40,000 landings. It is the intent of the FAA to propose future rulemaking to add this modification to the lower fastener row of the lap splices.

In addition, the FAA in interested in assuring that certain lap splices are modified on a priority schedule. Comments addressing this issue are specifically requested.

There are approxmiately 291 affected Model 737 series airplanes in the worldwide fleet. It is estimated that 100 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2,016 manhours per airplane to accomplish the required modifications, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,064,000.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is

not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 001 through 291, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent decompression of the airplane accomplish the following:

A. In accordance with the schedule set forth in paragraph B. of this AD:

1. Accomplish the terminating repair at all lap joints between BS 259 and BS 1016, which includes replacing all upper row fasteners with standard protruding head solid fasteners and assuring the tearstraps are functional 2 bays above and 1 bay below each lap joint, by the use of mechanical fasteners where disbonding of the tearstraps has occurred, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988.

2. Accomplish the preventative modification as described in Boeing Service Bulletin 737-53-1089, Revision 1, dated October 13, 1988, along S-17, using standard protruding head solid fasteners and assure the tearstraps are functional 2 bays above and 1 bay below S-17, by the use of mechanical fasteners where disbonding of the tearstraps has occurred, in accordance with the Structural Repair Manual.

B. Airplanes are to be modified as required by paragraph A., above, in accordance with the following times after the effective date of this AD:

Number of landings on effective date of this AD—	Modify within the next (months)
70,000 or more	6
60,000 to 69,999	12
50,000 to 59,999	18
40,000 to 49,999	24
Less than 40,000	36

C. For aircraft on which the procedures described in paragraph A., above, have been accomplished in accordance with Part IV, A.2., of Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, within 15 months after accomplishment, or within 6 months after the effective date of this AD, whichever occurs later, perform an external visual inspection of the skin for corrosion and delamination at all lap joints in accordance with that service bulletin. If corrosion is found, prior to further flight, perform a low frequency eddy current inspection of the entire length of the affected panel to determine material loss. If cracks are found, prior to further flight, perform a high frequency eddy current inspection of the entire length of the affected skin panel in accordance with the service bulletin. Repair cracks, corrosion, and delamination, prior to further flight (except as permitted by paragraph D., below), in accordance with the service bulletin. Inspections are to continue at intervals not to exceed 15 months.

D. If corrosion found as a result of the external inspection does not exceed 10% of the skin thickness, reinspect for corrosion in accordance with paragraph C., above, at intervals not to exceed 2,250 cycles or 6 months, whichever occurs first, until a repair is accomplished. If such corrosion exceeds 10% of skin thickness or if cracking is found, repair prior to further flight, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, for the skin along the lap joints, or Boeing Service Bulletin 737-53-1089, Revision 1, dated October 13, 1988, for the skin along S-17. Following such repair, resume inspections in accordance with paragraph C., above.

E. Accomplishment of the requirements of this AD constitutes terminating action for the requirements of Amendment 39-6059.

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

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

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

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

Issued in Seattle, Washington, on October 27, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-25252 Filed 10-27-88; 4:55 pm]

BILLING CODE 4910-13-M

federal register

Tuesday
November 1, 1988

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 67

Falsification of Airman Medical Certificate Applications; Record of Traffic Convictions; Notice of Enforcement Policy

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 67

Falsification of Airman Medical Certificate Applications; Record of Traffic Convictions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Enforcement Policy.

SUMMARY: Applicants for an airman medical certificate who have failed to disclose information with respect to traffic convictions (such as convictions for driving while intoxicated) on their applications may have violated § 67.20 of the Federal Aviation Regulations (14 CFR 67.20) by making intentionally false or fraudulent statements. This notice announces the termination of a previously announced policy allowing any such applicant to avoid enforcement action against his or her certificates, based on such a falsification, by providing the FAA with corrected information before the FAA became aware of any incorrect statement.

EFFECTIVE DATE: December 1, 1988.

FOR FURTHER INFORMATION CONTACT: Peter J. Lynch, Manager, Enforcement Proceedings Branch, AGC–250, Office of the Chief Counsel, 800 Independence Avenue SW., Washington DC 20591; telephone (202) 267–9956.

SUPPLEMENTARY INFORMATION: On October 22, 1987, the FAA issued a notice of enforcement policy with respect to persons who may have violated § 67.20 by falsifying their applications for airman medical certification with regard to their record of traffic convictions. The notice was published at 52 FR 41557 (October 29, 1987). That notice announced a policy which allowed such persons to avoid related FAA enforcement action against his or her airman, ground instructor, or medical certificates by providing corrected information before January 1, 1988, even if by that date the FAA had become aware of the apparent falsification. As to the FAA's policy which has remained in effect since January 1, 1988, the notice stated:

> * * * from the date of this notice and *until further notice*, where the airman has voluntarily supplied to the FAA's Aeromedical Certification Branch information regarding a record of traffic convictions in his or her medical application prior to the FAA's becoming aware of any incorrect statement in the application, the FAA will not take action against the airman's certificates on the basis of falsification for any falsification disclosed by such voluntarily disclosed information. (Emphasis supplied.)

As the FAA stated in its notice of October 1987, the Inspector General of the United States Department of Transportation (IG) has identified some airmen who appear to have falsified their applications with regard to their record of traffic convictions. The notice further indicated that the IG was referring these cases to the FAA for appropriate action. The IG has made a large number of such referrals to the FAA.

This notice is to advise that the previously announced policy for allowing any airman to avoid possible FAA certificate action (often referred to as the FAA's "amnesty program") is terminated, effective December 1, 1988.

Availability of this Notice

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

Issued in Washington, DC, on October 27, 1988.

T. Allan McArtor,

Administrator.

[FR Doc. 88–25251 Filed 10–31–88; 8:45 am]

BILLING CODE 4910–13–M

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 1988

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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November 2	November 17	December 2	December 19	January 3	January 31
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November 4	November 21	December 5	December 19	January 3	February 2
November 7	November 22	December 7	December 22	January 6	February 6
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November 21	December 6	December 21	January 5	January 23	February 20
November 22	December 7	December 22	January 6	January 23	February 20
November 23	December 8	December 23	January 9	January 23	February 21
November 25	December 12	December 27	January 9	January 24	February 23
November 28	December 13	December 28	January 12	January 27	February 27
November 29	December 14	December 29	January 13	January 30	February 27
November 30	December 15	December 30	January 17	January 30	February 28