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Thursday
February 8, 1996

Briefings on How To Use the Federal Register
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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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: February 21, 1996 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

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Reader Aids
Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address from DuPont Pharmaceuticals to DuPont Merck Pharmaceutical Co.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: DuPont Pharmaceuticals, One Rodney Square, Wilmington, DE 19898, has informed FDA of a change of sponsor name and address to DuPont Merck Pharmaceutical Co., DuPont Merck Plaza, MR2117, Wilmington, DE 19805. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name and address.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

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, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for ''DuPont Pharmaceuticals '' and by alphabetically adding a new entry for ''DuPont Merck Pharmaceutical Co.,'' and in the table in paragraph (c)(2) in the entry for ''000056'' by revising the sponsor name and address to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * *	* * *
DuPont Merck Pharmaceutical Co., DuPont Merck Plaza, MR2117, Wilmington, DE 19805.	000056
* * * *	* * *

(2)* * *

Drug labeler code	Firm name and address
* * * *	* * *
000056	DuPont Merck Pharmaceuticals Co., DuPont Merck Plaza, MR2117, Wilmington, DE 19805
* * * *	* * *

Dated: February 1, 1996.

Robert C. Livingston,

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

[FR Doc. 96–2688 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5418–3]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability and clarification of June 13, 1995 final rule.

SUMMARY: This notice expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the amended Clean Air Act of 1990, which requires EPA to evaluate substitutes for the OZONE-DEPLETING SUBSTANCES (ODS), and regulate the use of substitutes where other alternatives exist that reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. In addition, this Notice clarifies several points from the June 13, 1995 final rule (60 FR 31092).

On March 18, 1994, EPA promulgated its plan for administering the SNAP program, and issued decisions on the acceptability and unacceptability of a number of substitutes (59 FR 13044). In today's Notice, EPA issues decisions on the acceptability of substitutes not previously reviewed by the Agency. The intended effect of this action is to expedite movement away from ozone depleting compounds. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media sector end-use screening assessment of risks to human health and the environment.

EFFECTIVE DATE: February 8, 1996.

ADDRESSES: Information relevant to this notice is contained in Air Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 260–7548. The docket may be inspected between 8 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Jeffrey Levy at (202) 233–9727 or fax (202) 233–9577, U.S. EPA, Stratospheric Protection Division, 401 M Street, SW., Mail Code 6205J, Washington, DC 20460; EPA Stratospheric Ozone Protection Hotline at (800) 296–1996; EPA World Wide Web Site at http://www.epa.gov/docs/ozone/title6/SNAP/snap.html.

SUPPLEMENTARY INFORMATION:

I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.
- *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.
- *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional 6 months.
- *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or *existing* chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.
- *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.
- *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in the final rule for the SNAP program (59 FR 13044), EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Consequently, EPA is adding substances to the list of acceptable alternatives without first requesting comment on new listings.

EPA does, however, believe that notice-and-comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from either the list of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the Federal Register.

The Agency defines a ''substitute'' as any chemical, product substitute, or

alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators or end-users, when they are responsible for introducing a substitute into commerce.

EPA published Notices listing acceptable alternatives on August 26, 1994 (59 FR 44240), January 13, 1995 (60 FR 3318), and July 28, 1995 (60 FR 38729), and published a Final Rulemaking restricting the use of certain substitutes on June 13, 1995 (60 FR 31092). EPA also published a Notice of Proposed Rulemaking restricting the use of certain substitutes on October 2, 1995 (60 FR 51383).

II. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes for class I and class II substances in the following industrial sectors: refrigeration and air conditioning, foam blowing, and fire suppression and explosion protection. In this Notice, EPA has split the refrigeration and air conditioning sector into two parts: Substitutes for class I substances and substitutes for class II substances. These decisions represent substitutes not previously reviewed and add to the lists of acceptable substitutes under SNAP. For copies of the full list, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

Parts A through D below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing today's listing decisions are in Appendix A. The comments contained in Appendix A provide additional information on a substitute, but like the listings of acceptable substitutes, they are not legally binding. Thus, adherence to recommendations in the comments are not mandatory for use of a substitute. In addition, the comments should not be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments to their use of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning

Please refer to the final SNAP rule for detailed information pertaining to the designation of end-uses, additional requirements imposed under sections 608 and 609, and other information related to the use of alternative refrigerant.

1. Clarifications From the June 13, 1995 Final Rule

HCFC Blend Beta was listed as containing HFC–134a, HCFC–124, and isobutane. In fact, according to the submission on file with EPA, this blend contains butane. The determination that this blend is acceptable subject to certain use conditions applied to the actual blend, not to the incorrectly listed one.

In the tables listing unacceptable substitutes for CFC–12 in motor vehicle air conditioning, a definition for the category ''Flammable Substitutes'' was inadvertently omitted. As discussed in the preamble, it should have included the phrase ''as having flammability limits as measured according to ASTM E–681 with modifications included in Society of Automotive Engineers Recommended Practice J1657, including blends which become flammable during fractionation.'' In addition, EPA clearly does not intend to constrain future findings. Thus, the table should have included a statement that this category does not include substitutes discussed explicitly in other rulings.

2. Other Clarification

EPA has received inquiries as to the point at which a blend is sufficiently different from an already reviewed substitute as to require a new submission. EPA generally follows similar guidelines used by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). When new blends are submitted to ASHRAE for classification, the manufacturer must specify blending tolerances. Any blend that falls outside those tolerances is defined to be a distinct refrigerant. EPA requires leak testing of blends to determine whether they can become flammable after fractionation. The percentage of flammable components in a blend are usually quite close to the maximum possible for the blend as a whole to remain nonflammable. Even an increase of 1% of a flammable component may change the flammability of the blend. Therefore, blending tolerances are smaller for flammable components than for nonflammable components. Companies should determine blending tolerances. If the outside range of those tolerances could result in a different flammability or toxicity profile, then the blend will require a new submission. EPA encourages manufacturers to contact the SNAP refrigerants analyst for assistance in making this determination.

3. Acceptable Substitutes

a. R–508. *R–508, which contains HFC–23 and R–116, is acceptable as a substitute for CFC–13, R–13B1, and R–503 in retrofitted and new very low temperature refrigeration.* Both components of this blend exhibit extremely high GWPS and long lifetimes. HFC–23 has a GWP of 9,000 and a lifetime of 280 years, and R–116, perfluoroethane, has a GWP of 9,000 and a lifetime of 10,000 years. EPA believes this blend could significantly contribute to global warming if allowed to escape refrigeration systems. In addition, the long lifetimes of R–116 and HFC–23 mean any global warming or other effects would be essentially irreversible. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996. This blend is nonflammable and does not deplete ozone. EPA urges manufacturers to develop alternatives for R–503 and CFC–13 that do not contain substances with such high GWPS and long lifetimes.

b. R–411A and R–411B. *R–411A and R–411B, which consist of HCFC–22, HFC–152a, and propylene, are acceptable as substitutes for CFC–12 and R–502 in the following end-uses:*

- Reciprocating Chillers
- Industrial Process Refrigeration
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Commercial Ice Machines
- Vending Machines
- Water Coolers

HCFC–22 contributes to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend (58 FR 28660). This blend

poses less of a threat to the ozone layer than HCFC–22, which has already been listed as an acceptable substitute for CFC–12. The GWP of HCFC–22 is somewhat high, but the GWP of HFC–152a is low. Although propylene and HFC–152a are flammable, R–411A and R–411B have been designated as A1/A2 refrigerants by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). This designation means that the blend as formulated is nonflammable, but can become flammable under worst-case fractionation. However, over 75% of R–411A and 95% of R–411B must leak from the vapor phase before becoming flammable. Leaks from the liquid phase do not become flammable, regardless of the amount leaked.

c. HCFC Blend Beta. *HCFC Blend Beta, which consists of HCFC–124, HFC–134a, and butane, is acceptable as a substitute for CFC–12 in the following new and retrofitted end-uses:*

- Reciprocating Chillers
- Industrial Process Refrigeration
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators
- Household Freezers
- Residential Dehumidifiers

This blend contains HCFC–124. Therefore, it contributes to ozone depletion, but to a much lesser degree than CFC–12. HCFC–124 has an ODP much lower than that of HCFC–22, which has already been listed as an acceptable substitute for CFC–12. Regulations regarding recycling and reclamation issued under section 60 of the Clean Air Act (58 FR 28660) apply to this blend. The GWPS of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

d. HCFC Blend Delta. *HCFC Blend Delta is acceptable as a substitute for CFC–12 in retrofitted household refrigerators and freezers.* The composition of this blend has been claimed confidential by the manufacturer. This blend contains at least one HCFC, and therefore contributes to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend (58 FR 28660). The GWPS of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

e. HCFC Blend Lambda. *HCFC Blend Lambda, which consists of HCFC–22, HCFC–142b, and isobutane, is acceptable as a substitute for R–500 in retrofitted centrifugal chillers and as a substitute for CFC–12 in the following new and retrofitted end-uses:*

- Reciprocating Chillers
- Industrial Process Refrigeration
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators
- Household Freezers
- Residential Dehumidifiers

HCFC–22 and HCFC–142b contribute to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend (58 FR 28660). HCFC–142b has an ODP slightly higher than that of HCFC–22. The GWPS of HCFC–22 and HCFC–142b are somewhat high. Although HCFC–142b is flammable, the blend is not. Under massive leakage, this blend becomes weakly flammable. However, this blend contains more HCFC–22 and less of the two flammable components than R–406A, and therefore should be at least as safe to use as R–406A. However, users should note that operating pressures will be higher than when using R–406A, so its use may not be appropriate in the same types of equipment.

f. HFC–236fa. *HFC–236fa, when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step, is acceptable as a substitute for CFC–114 in centrifugal chillers.* HFC–236fa does not harm the ozone layer because it does not contain chlorine. HFC–236fa has an extremely high 100-year GWP of 8000, but its lifetime is considerably shorter than that of perfluorocarbons. Although HCFC–124 is already listed as acceptable in this end-use, it produces toxic byproducts when it passes through air purification systems on submarines. Therefore, HCFC–124 is not a feasible alternative. HFC–236fa is the only alternative identified to date that is safe for the ozone layer, is low in toxicity, and can withstand the air purification process. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996.

In the March 18, 1994 final SNAP rule (58 FR 13044), EPA required manufacturers to submit information on manufacturing processes to allow an assessment of the risks posed to the general public and workers. However, EPA clarified in that action that acceptability determinations made on the basis of one company's submission would apply to the same chemical produced by other manufacturers, obviating the need for duplicative reporting requirements and review. To date, despite the fact that some alternatives are manufactured by several companies, no process has been identified as significantly more hazardous than another. Therefore, EPA has not yet based SNAP decisions specifically on the manufacturing process.

EPA is aware, however, of several methods for manufacturing HFC–236fa, including one that produces HFC–236fa directly from PFIB. PFIB is an extremely toxic substance that could pose risks in very small concentrations. Thus, EPA believes it is appropriate to distinguish among the different methods for producing HFC–236fa. This acceptability determination does not prohibit the manufacture of HFC–236fa directly from PFIB. Rather, it finds acceptable the production of HFC–236fa in processes that do not convert PFIB directly to HFC–236fa in a single step. If a manufacturer wishes to produce HFC–236fa directly from PFIB, it must submit that process to EPA for review under SNAP.

A. Refrigeration and Air Conditioning: Substitutes for Class II Substances

Please refer to the March 18, 1994 SNAP rule (59 FR 13044) for detailed information pertaining to the designation of end-uses, additional requirements imposed under sections 608 and 609, and other information related to the use of alternative refrigerants.

This Notice marks the first time EPA has addressed substitutes for HCFC–22 in the refrigeration and air conditioning sector. Although the substitutes listed below were intended specifically to replace HCFC–22, HCFC–22 is itself frequently used as a substitute for class I refrigerants (e.g, CFC–11 and CFC–12).

Therefore, the listings below also describe these HCFC–22 substitutes as acceptable alternatives for class I refrigerants in new equipment. The underlying reasoning is that if, for instance, HCFC–22 poses lower overall risk than CFC–12, and R–410A poses lower overall risk than HCFC–22, then R–410A must also pose lower overall risk than CFC–12. Therefore, even though R–410A isn't designed to be a direct replacement for CFC–12, in new equipment it may be appropriate to design for R–410A rather than for another CFC–12 substitute. As with all listings, however, engineering decisions are required to determine the best match between a given class I refrigerant and an alternative.

1. Acceptable

a. R–410A and R–410B. *R–410A and R–410B, which consist of HFC–32 and HFC–125, are acceptable as substitutes for HCFC–22, and by extension, class I refrigerants, in equipment in the following new end-uses:*

- Centrifugal, Reciprocating, and Screw Chillers
- Industrial Process Refrigeration Systems
- Very-Low-Temperature Industrial Process Refrigeration
- Industrial Process Air Conditioning
- Ice Skating Rinks
- Refrigerated Transport
- Retail Food Refrigeration
- Cold Storage Warehouses
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators and Freezers
- Residential Dehumidifiers
- Household and Light Commercial Air Conditioning

Both R–410A and R–410B contain HFC–32 and HFC–125 but in slightly different compositions. Neither blend is flammable when used in these end uses while maintaining as-formulated composition nor after leak conditions. Leak testing has demonstrated that their compositions do not become flammable under any of the conditions found in these end uses. However, since both blends include HFC–32, which is flammable by itself, they should not be mixed with high concentrations of air above atmospheric pressures to minimize the risk of ignition. HFC–125 exhibits a fairly high global warming potential (3,200 at 100 year integrated time horizon) compared to other HFCs and HCFC–22. However, its potential for contributing to global warming will be delayed in the listed end uses through the implementation of the venting prohibition under Section 608(c)(2) of the Clean Air Act Amendments. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996. R–410A and R–410B do not contain ozone-depleting substances, they are low in toxicity, and none of their components is regulated as a volatile organic compound.

b. R–407C. *R–407C, which is a blend of HFC–32, HFC–134a and HFC–125, is acceptable as a substitute for HCFC–22 in new and retrofit equipment, and by extension, as a substitute for class I refrigerants in new equipment, in the following end-uses:*

- Centrifugal, Reciprocating, and Screw Chillers
- Industrial Process Refrigeration
- Very Low Temperature Industrial Process Refrigeration
- Ice Skating Rinks
- Refrigerated Transport
- Retail Food Refrigeration Systems
- Cold Storage Warehouses
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators and Freezers
- Residential Dehumidifiers
- Household and Light Commercial Air Conditioning

This blend is not flammable when used in these end uses while maintaining as-formulated composition or after leak conditions. Leak testing has demonstrated that its composition, or composition variations due to fractionation, does not make it flammable under any of the conditions found in these end uses. This blend includes HFC–32 and HFC–125, therefore the above discussion of these two substances as part of R–410A and R–410B is applicable. Again, EPA urges users to reduce leakage and recover and recycle this blend during equipment servicing and upon the retirement of equipment. R–407C doesn't damage the ozone layer, it is low in toxicity, and none of its components is regulated as a volatile organic compound. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996.

c. HFC–134a. *HFC–134a is acceptable as a substitute for HCFC–22 in new Household and Light Commercial Air Conditioning.* HFC–134a exhibits a moderate to high global warming potential (1,300 at 100 year integrated time horizon) compared to other HFCS. Although much lower than HFC–125, uncontrolled emissions could have a significant impact on global warming. Therefore, the above guidance on controlling leaks and recycling, particularly during disposal, are applicable to HFC–134A in this end use. HFC–134a does not damage the ozone layer, it is very low in toxicity, and it is not regulated as a volatile organic compound. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline.

B. Fire Suppression and Explosion Protection

1. Acceptable

a. Total Flooding Agents. (1) *[Powdered Aerosol] C is acceptable for use in normally unoccupied areas.* This agent is intended solely for use in normally unoccupied areas and thus it does not represent a significant threat to worker safety or health. Use conditions to limit the risk of inadvertent exposure to personnel in normally unoccupied areas may be included in future rulemakings.

III. Substitutes Pending Review

The Agency describes submissions as pending if data are incomplete or for which the 90-day review period is underway and EPA has not yet reached a final decision. For submissions that are incomplete, the Agency will contact the submitter to determine a schedule for providing the missing information if the Agency needs to extend the 90-day review period. EPA will use its authority under section 114 of the Clean Air Act to gather this information, if

necessary. Any delay of the review period does not affect a manufacturer's ability to sell a product 90 days after notification of the Agency. Substitutes currently pending completion of review are listed in Appendix A.

IV. Additional Information

Contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday-Friday, between the hours of 10:00 a.m. and 4:00 p.m. (Eastern Standard Time) weekdays.

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the Federal Register on March 18, 1994 (59 FR 13044). Federal Register notices can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. This Notice can also be retrieved electronically from EPA's Technology Transfer Network (TTN), Clean Air Act Amendment Bulletin Board. If you have a 1200 or 2400 bps modem, dial (919) 541–5742. If you have a 9600 bps modem, dial (919) 541–1447. For assistance in accessing this service, call (919) 541–5384. Finally, this notice may be obtained on the World Wide Web at http://www.epa.gov/docs/ozone/title6/snap/snap.html.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: December 19, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

Note: The following Appendix will not appear in the Code of Federal Regulations.

APPENDIX A: SUMMARY OF ACCEPTABLE AND PENDING DECISIONS

[Refrigerants—Class I Acceptable Substitutes]

End-Use	Substitute	Decision	Comments
CFC–12 and R–500 Reciprocating Chillers; CFC–12 and R–502 Industrial Process Refrigeration, Cold Storage Warehouses, Refrigerated Transport, Retail Food Refrigeration, Vending Machines, Water Coolers, Commercial Ice Machines (Retrofitted and New).	R–411A R–411B HCFC blend Beta HCFC Blend Lambda	Acceptable Acceptable Acceptable Acceptable	This blend contains the same components as R–406A, but in different percentages.
CFC–12 and R–502 Household Refrigerators, Household Freezers, and Residential Dehumidifiers.	HCFC Blend Beta HCFC Blend Lambda	Acceptable Acceptable	This blend contains the same components as R–406A, but in different percentages.
CFC–13, R–13B1, and R–503 Very Low Temperature Refrigeration.	R–508	Acceptable.	
CFC–114 Centrifugal Chillers	HFC–236fa	Acceptable.	

REFRIGERATION AND AIR CONDITIONING ACCEPTABLE SUBSTITUTES FOR CLASS II SUBSTANCES

End-use	Substitute	Decision	Comments
Household and Light Commercial Air Conditioning			This end use also includes heat pump systems.
HCFC–22 Systems, New	R–407C, R–410A, R–410B, HFC–134A.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
Commercial Comfort Air Conditioning			This end use includes chillers in general.
HCFC–22 Reciprocating Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12 Reciprocating Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–500 Reciprocating Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–11 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Centrifugal Chillers, Retrofit	R–407C	Acceptable	EPA urges recycling.
R–500 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Screw Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Screw Chillers, Retrofit	R–407C	Acceptable	EPA urges recycling.
Industrial Process Refrigeration			It also includes very-low-temperature industrial refrigeration.
HCFC–22 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–500 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.

REFRIGERATION AND AIR CONDITIONING ACCEPTABLE SUBSTITUTES FOR CLASS II SUBSTANCES—Continued

End-use	Substitute	Decision	Comments
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Industrial Process Air Conditioners			
HCFC–22 A/C Systems, New	R–407C, R–410A, R–410B, HFC–134a.	Acceptable	EPA urges recycling.
HCFC–22 A/C Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 A/C System, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–114 A/C System, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12/CFC–114 A/C Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Ice Skating Rinks			
HCFC–22 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Refrigerated Transport			
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–500 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Retail Food Refrigeration			It also includes cold storage warehouses.
HCFC–22 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Ice Machines			
CFC–12 Ice Machines, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Household Refrigerators and Freezers			
CFC–12 Household Refrigerators, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12 Household Freezers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Household Freezers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Other Refrigerated Appliances			Includes water coolers, vending machines, and dehumidifiers.
CFC–12 Refrigerated Appliances, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Refrigerated Appliances, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.

FIRE SUPPRESSION AND EXPLOSION PROTECTION

[Total Flooding Agents Acceptable Substitutes]

End-Use	Substitute	Decision	Comments
Halon 1301	Powdered Aerosol C	Acceptable	For use in normally unoccupied areas only.
Acceptable Substitutes—Foam Blowing			
Integral Skin with HCFC–22	CO_2 HFC–134a	Acceptable. Acceptable.	

PENDING DECISIONS—FOAM BLOWING

End-use	Substitute	Comments
HCFCs, Polyurethane Integral Skin	CO2 HFC–134a.	

PENDING SUBSTITUTES—SOLVENT CLEANING

End-use	Substitute	Comments
Metals Cleaning w/ CFC–113 and MCF.	Chlorobromomethane	Additional toxicity testing is necessary to characterize fully the chronic health effects such as carcinogenicity that could arise from repeated exposures. In addition, decomposition studies and ozone depletion analyses must be completed before SNAP decision is rendered.
Electronics Cleaning w/ CFC–113 and MCF.	Chlorobromomethane	Additional toxicity testing is necessary to characterize fully the chronic health effects such as carcinogenicity that could arise from repeated exposures. In addition, decomposition studies and ozone depletion analyses must be completed before SNAP decision is rendered.
Precision Cleaning w/ CFC–113 and MCF.	Chlorobromomethane	Additional toxicity testing is necessary to characterize fully the chronic health effects such as carcinogenicity that could arise from repeated exposures. In addition, decomposition studies and ozone depletion analyses must be completed before SNAP decision is rendered.

[FR Doc. 96–2723 Filed 2–7–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 271

[FRL–5308–5]

Michigan: Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Michigan has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act of 1976 as amended (hereinafter ''RCRA''). The Environmental Protection Agency (EPA) has reviewed Michigan's application and has reached a decision, subject to public review and comment, that Michigan's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Michigan's hazardous waste program revisions, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA). Michigan's application for program revision is available for public review and comment.

EFFECTIVE DATE: Final authorization for Michigan's program revisions shall be effective April 8, 1996 unless EPA publishes a prior Federal Register (FR) action withdrawing this immediate final rule. All comments on Michigan's program revision application must be received by the close of business on March 9, 1996. If an adverse comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision; or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

ADDRESSES: Written comments should be sent to Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. EPA, Office of RCRA, DR–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, phone (312) 886–4179. Copies of Michigan's program revision application are available for inspection and copying at the following addresses from 9 a.m. to 4 p.m.: Michigan Department of Environmental Quality, 608 W. Allegan, Hannah Building, Lansing, Michigan. Contact: Ms. Ronda Blayer, Phone: (517) 373–9548; U.S. EPA, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604, contact: Ms. Judy Feigler, (312) 886–4179.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Office of RCRA, DR–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Phone: (312) 886–4179.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

In accordance with 40 CFR 271.21(a), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessary because of changes to EPA's regulations in 40 CFR parts 124, 260–268 and 270.

B. Michigan

Michigan initially received final authorization for its base RCRA program effective on October 30, 1986 (51 FR 36804–36805, October 16, 1986). Michigan received authorization for revisions to its program effective on January 23, 1990 (54 FR 225, November 24, 1989), June 24, 1991 (56 FR 18517, April 23, 1991), November 30, 1993 (58 FR 51244, October 1, 1993), and January 13, 1995 (60 FR 3095, January 13, 1995). On June 18, 1994, Michigan revised its hazardous waste rules. On March 30, 1995, Michigan recodified its hazardous waste statute, Act 64, in Part 111 of the Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended (Act 451). On November 9, 1995, Michigan completed a revision application seeking authorization for the program revisions. EPA has reviewed this application and has made an immediate final decision that Michigan's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to Michigan for its additional program revisions. The public may submit written comments on EPA's immediate final decision up until March 9, 1996. Copies of Michigan's application for program revision are available for inspection and copying at the locations

indicated in the **ADDRESSES** section of this notice.

Approval of Michigan's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

On April 8, 1996 (unless EPA publishes a prior FR action withdrawing this immediate final rule), Michigan will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following Federally-initiated changes to provisions of the Federal program:

Federal requirement	Analogous State authority
Hazardous and Used Oil Fuel Criminal Penalties, HSWA §§ 3006(h), 3008(d), and 3014, November 8, 1984.	Michigan Combined Laws (MCL), Sections 324.11105, 324.11127, 324.11138, and 324.11151, enacted March 30, 1995.
Corrective Action, 50 FR 28702, July 15, 1985	MCL Sections 324.11102, 324.11105, 324.11115a, and 324.11127, enacted March 30, 1995; Michigan Administrative Code (MAC), Rule (R) 299.9503(3) (a) and (b), R 299.9601 (1) and (2)(j), R 299.9612, R 299.9629(1), R 299.9712, R 299.9713, and R 299.11003(1)(l), effective June 18, 1994
Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces, 50 FR 49164, November 29, 1985, as amended at 52 FR 11819, April 13, 1987.	MAC R 299.9623(1)(b), effective April 20, 1988; R 299.9802, effective February 15, 1989; MAC Rule R 299.9104(e), R 299.9109(i), R 299.9203(4)(b), R 299.9205 (3) (a)–(d) and (8), R 299.9206 (2)(e), (3) (c), (g), (h) and (k), R 299.9601 (1), (3) and (8), R 299.9801(1), R 299.9802, R 299.9805, R 299.9806, R 299.9807, and R 299.11003(1)(o), effective June 18, 1994.
Listing of EBDC, 51 FR 37725, October 24, 1986	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9222 and R 299.11003(1)(i), effective June 18, 1994.
Revised Manual SW–846; Amended Incorporation by Reference, 52 FR 8072, March 16, 1987.	MAC R 299.11005 (1) and (2), effective June 18, 1994.
California List Waste Restrictions: Technical Corrections, 52 FR 41295, October 27, 1987.	MAC R 299.9311, R 299.9413, R 299.9627, R 299.11003(1)(p), and R 299.11005 (1) and (2), effective June 18, 1994.
Permit Application Requirements Regarding Corrective Action, 52 FR 25788, December 1, 1987.	MAC R 299.9508(1)(b), effective April 20, 1988; MAC R 299.9504 (1)(c) and (18), and R 299.11003(1)(q), effective June 18, 1994.
Corrective Action Beyond the Facility Boundary, 52 FR 45788, December 1, 1987.	MAC R 299.9629 (2) and (7), effective June 18, 1994.
Corrective Action for Injection Wells, 52 FR 45788, December 1, 1987 .	MAC R 299.9503 (3)(a)(i) and (5), R 299.9601(4), and R 299.11003(1)(b), effective June 18, 1994.
Permit Modification, 52 FR 45788, December 1, 1987	MAC R 299.9519(3)(b), effective June 18, 1994.
Permit as a Shield Provision, 52 FR 45788, December 1, 1987	MAC R 299.9516, effective April 20, 1988.
Permit Conditions to Protect Human Health and the Environment, 52 FR 45788, December 1, 1987.	MAC R 299.9508(1)(b) and R 299.9521(3)(b), effective April 20, 1988; R 299.9504(16), effective June 18, 1994.
Farmer Exemptions; Technical Corrections, 53 FR 27164, July 19, 1988.	MAC R 299.9204(3)(b), R 299.9301(2)(c), R 299.9311, R 299.9413, R 299.9503(1)(c), R 299.9601 (3), (6), and (8), R 299.9627, and R 299.11003(1) (o) and (p), effective June 18, 1994.
Treatability Studies Sample Exemption, 53 FR 27290, July 19, 1988	MAC R 299.9108(j), and R 299.9204 (7) and (8), effective June 18, 1994.
Land Disposal Restrictions for First Third Scheduled Wastes, 53 FR 31138, August 17, 1988, as amended at 54 FR 8264, February 27, 1989.	MAC R 299.9609 (1)(a) and (2)–(5), effective November 19, 1991; MAC R 299.9311, R 299.9413, R 299.9601 (1), (2) (c) and (d), (3) and (8), R 299.9605 (1) and (3), R 299.9627, R 299.9801(3), and R 299.11003(1) (l), (m), (o) and (p), effective June 18, 1994.
Financial Responsibility for Third Party Liability, Closure, and Post-Closure, 53 FR 33938, September 1, 1988, as amended at 56 FR 30200, July 1, 1991.	MAC R 299.9705(1), effective December 28, 1985; MAC rule R 299.9701(4) and R 299.9709, effective February 15, 1989; MAC R 299.9710, effective June 18, 1994.
Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079, September 2, 1988.	MAC R 299.9103(b) (i) and (ii), R 299.9109(p)(iii), R 299.9601 (1), (2) (f) and (h), R 299.9613 (1) and (6), R 299.9615 (1) and (7), and R 299.11003(1) (l) and (o), effective June 18, 1994.
Identification and Listing of Hazardous Waste and Designation, Reportable Quantity and Notification, 53 FR 35412, September 13, 1988.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9222 and R 299.11003(1)(l), effective June 18, 1994.
Permit Modification for Hazardous Waste Management Facilities, 53 FR 37912, September 28, 1988, as amended at 53 FR 41649, October 24, 1988.	MAC R 299.9520, effective April 20, 1988; R 299.9103 (a), (k), and (aa), R 299.9511, and R 299.9519, effective June 18, 1994.
Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, 53 FR 39720, October 11, 1988.	MAC R 299.9612 (1) and (2) and R 299.11003(1)(l), effective June 18, 1994.
Removal of Iron Dextran from List of Hazardous Wastes, 53 FR 43878, October 31, 1988.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9225 and R 299.11003(1)(i), effective June 18, 1994.
Removal of Strontium Sulfide from the List of Hazardous Wastes, 53 FR 43881, October 31, 1988.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9224 and R 299.11003(1)(i), effective June 18, 1994.
Changes to 40 CFR Part 124 Not Accounted for by Present RCRA Revision Checklists, 54 FR 246, January 4, 1989; 53 FR 37396, September 26, 1988; 53 FR 28118, July 26, 1988; 48 FR 30113, June 30, 1983; 48 FR 14146, April 1, 1983.	MAC R 299.9509, R 299.9513, and R 299.9514(2)(b), effective December 28, 1985; MAC R 299.9508 (3) and (4), R 299.9510, R 299.9520(3), and R 299.9521, effective April 20, 1988; MAC R 299.9503, R 299.9504 (15) and (18), R 299.9511, R 299.9519 (1) and (2), and R 299.11003(1)(q), effective June 18, 1994.
Amendments to Hazardous Waste Incinerator Permit Requirements, 54 FR 4286, January 30, 1989.	MAC R 299.9626 (4)–(6), effective December 28, 1985; MAC R 299.9508(1)(b) and R 299.9521 (3) and (4), effective April 20, 1988; MAC R 299.9504(4) (a) and (b), effective June 18, 1994.

Federal requirement	Analogous State authority
Changes to Interim Status Facilities for Hazardous Waste Management Permits Procedures for Post-Closure Permitting, 54 FR 9596, March 7, 1989.	MAC R 299.9501, effective November 19, 1991; MAC R 299.9515(1) and R 299.9517(2)(b), effective April 20, 1988; MAC R 299.9502, R 299.9503, R 299.9518(2)(c), R 299.9522(2), R 299.9601 (1)(a), (2)(f), and (2)(j), R 299.9629, R 299.11003(1)(q), effective June 18, 1994.
Land Disposal Restrictions for First Third Scheduled Wastes, 54 FR 18836, May 2, 1989.	MAC R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Land Disposal Restrictions for Second Third Scheduled Wastes, 54 FR 26594, June 23, 1989.	MAC R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Delisting; Correction, 54 FR 27114, June 27, 1989	MAC R 299.9211, effective February 15, 1989; MAC R 299.11003(1)(g), effective June 18, 1994.
Delay of Closure Period for Hazardous Waste Management Facilities, 54 FR 33376, August 14, 1989.	MAC R 299.9702 (1) and (2), effective April 20, 1988; MAC R 299.9601 (1), (2)(f), (3), and (8), R 299.9605 (1) and (3), R 299.9613 (1) and (6), and R 299.11003(1) (l), (m), and (o), effective June 18, 1994.
Mining Waste Exclusion I, 54 FR 36592, September 1, 1989	MAC R 299.9204(2) (h) and (i), effective June 18, 1994.
Land Disposal Restrictions: Corrections to First Third Scheduled Wastes, 54 FR 36967, September 6, 1989, as amended at 55 FR 23935, June 13, 1990.	MAC R 299.9311, R 299.9413, R 299.9627, R 299.9801(3), and R 299.11003(1)(p), effective June 18, 1994.
Testing and Monitoring Activities, 54 FR 40260, September 29, 1989 ...	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.11003(1)(i) and R 299.11005 (1) and (2), effective June 18, 1994.
Reportable Quantity Adjustment Methyl Bromide Production Wastes, 54 FR 41402, October 6, 1989.	MAC R 299.9216 (1) and (2), R 299.9222, and R 299.11003(1)(i), effective June 18, 1994.
Hazardous Waste Management Systems: Identification and Listing CERCLA Substance Designation Reportable Quantity Adjustment, 54 FR 50968, December 11, 1989.	MAC R 299.9216 (1) and (2), 299.9220, and 299.11003(1)(i), effective June 18, 1994.
Mining Waste Exclusion II, 55 FR 2322, January 23, 1990	MAC R 299.9102(n), R 299.9204(2)(h), and R 299.9304 (2)(d) and (4)(h), effective June 18, 1994.
Modification of F019 Listing, 55 FR 5340, February 14, 1990	MAC R 299.9220, effective June 18, 1994.
Testing and Monitoring Activities, 55 FR 8948, March 9, 1990	MAC R 299.11003(1)(i) and R 299.11005(1), effective June 18, 1994.
Toxicity Characteristic Revisions, 55 FR 11798, March 29, 1990, as amended at 55 FR 26986, June 29, 1990.	MAC R 299.9204 (2) (f), (k), and (l) and (9), R 299.9209(5), R 299.9212(4), R 299.9217, R 299.9601 (3) and (8), R 299.11003(1) (l), (o), (p), and (r), effective June 18, 1994.
Listing of 1,1-dimethylhydrazine Production Wastes, 55 FR 18496, May 2, 1990.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9222 and R 299.11003(1)(i), effective June 18, 1994.
Criteria for Listing Toxic Wastes, 55 FR 18726, May 4, 1990	MAC R 299.9209 (1) and (7) and R 299.11003(1)(h), effective June 18, 1994.
HSWA Codification Rule, Double Liners; Corrections, 55 FR 1926, May 9, 1990.	MAC R 299.9616 (1) and (4), effective December 28, 1985; MAC R 299.9619 (1) and (6), and R 299.11003(1)(l), effective June 18, 1994.
Land Disposal Restrictions for Third Third Scheduled Wastes, 55 FR 22520, June 1, 1990.	MAC R 299.9616 (1) and (2), R 299.9617 (1) and (3), and R 299.9618 (1) and (2), effective December 28, 1985; MAC R 299.9214(1)(c), effective November 19, 1991; MAC R 299.9212(6), R 299.9302 (1)(b) and (2), R 299.9311, R 299.9413, R 299.9519(5)(b)(ii), R 299.9601 (1), (3), and (8), R 299.9605 (1) and (3), R 299.9619 (1) and (6), R 299.9220, R 299.9627, and R 299.11003(1) (i), (l), (o), and (p), effective June 18, 1994.
Organic Air Emission Standards for Process Vents and Equipment Leaks, 55 FR 25454, June 21, 1990.	MAC R 299.9508(1)(b), effective April 20, 1988; MAC R 299.9609 (1)(a), (1)(b), and (5), effective November 19, 1991; MAC R 299.9206(1) (b)–(d), R 299.9504 (1)(c), (12), (13), and (18), R 299.9601, R 299.9605 (1) and (3), R 299.9630 (1) and (2), R 299.9631 (1) and (2), R 299.11001(1) (a), (j), (k), (l), (m), (o), (q), (r), (s), (t), and (3), effective June 18, 1994.
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings—F037 and F038, 55 FR 46354, November 2, 1990, as amended at 55 FR 51707, December 17, 1990.	MAC R 299.9213 (4)–(7), R 299.9220, and R 299.11003(1)(i), effective June 18, 1994.
Wood Preserving Listings, 55 FR 50450, December 6, 1990	MAC R 299.9102(v), R 299.9204(1) (i) and (j), R 299.9220, R 299.9227, R 299.9306, R 299.9504 (14) and (18), R 299.9508(1)(b), R 299.9601, R 299.9615 (1) and (7), R 299.9632 (1) and (2), and R 299.11003(1) (i), (l), (o), and (q), effective June 18, 1994.
Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, 56 FR 3864, January 31, 1991.	MAC R 299.9203(5)(a), R 299.9212(6), R 299.9220, R 299.9302(1)(b), R 299.9306(4)(e), R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Toxicity Characteristic; Chlorofluorocarbon Refrigerants, 56 FR 5910, February 13, 1991.	MAC R 299.9204(2)(m), effective June 18, 1994.
Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, 56 FR 7567, February 25, 1991.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9224, and R 299.11003(1)(i), effective June 18, 1994.
Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment, 56 FR 19290, April 26, 1991.	MAC R 299.9609 (1)(a) and (5), effective November 19, 1991; MAC R 299.9504 (12) and (18), R 299.9601, R 299.9630 (1) and (2), R 299.9631 (1) and (2), and R 299.11003(1) (l), (m), (o), and (q), effective June 18, 1994.

Federal requirement	Analogous State authority
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings—F037 and F038; Revisions, 56 FR 21955, May 13, 1991.	MAC R 299.9220, effective June 18, 1994.
Mining Waste Exclusion III, 56 FR 27300, June 13, 1991	MAC R 299.9204(2)(h), effective June 18, 1994.
Wood Preserving Listings; Technical Corrections, 56 FR 30192, July 1, 1991.	MAC R 299.9306(1) (a)–(d) and R 299.9508(1)(b), effective April 20, 1988; MAC R 299.9204(1)(i) and (j), R 299.9227(2)–(4), R 299.9504 (14) and (18), R 299.9601 (1), (3), and (8), R 299.9632 (1) and (2), and R 299.11003(1) (l), (o), and (q), effective June 18, 1994.
Land Disposal Restrictions for Electric Arc Furnace Dust—K061, 56 FR 41164, August 19, 1991.	MAC R 299.9203(4) (c) and (d), R 299.9204(1)(k), R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Exports of Hazardous Waste; Technical Correction, 56 FR 43704, September 4, 1991.	MAC R 299.9309 (1) and (4), effective April 20, 1988; MAC R 299.11003(1)(j), effective June 18, 1994.
Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, 57 FR 8086, March 6, 1992.	MAC R 299.9311, R 299.9413, R 299.9601 (3) and (8), R 299.9605, R 299.9627, and R 299.11003(1) (l), (o), and (p), effective June 18, 1994.
Used Oil Filter Exemption, 57 FR 21524, May 20, 1992	MAC R 299.9204(2)(o), effective June 18, 1994.
Toxicity Characteristic Revision, 57 FR 23062, June 1, 1992	MAC R 299.9204(2)(i), effective June 18, 1994.
Used Oil Filter Exemption; Technical Corrections, 57 FR 29220, July 1, 1992.	MAC R 299.9204(2)(o), effective June 18, 1994.
Toxicity Characteristic Revisions; Technical Corrections, 57 FR 30657, July 10, 1992.	MAC R 299.9204(2) (g) and (k), effective June 18, 1994.
Wood Preserving Listings, 57 FR 61492, December 24, 1992	MAC R 299.9220, R 299.9601 (1), (3) and (8), R 299.9632, and R 299.11003(1) (l) and (o), effective June 18, 1994.

In addition, Michigan will be authorized to carry out, in lieu of the Federal program, the following State-initiated changes to provisions of the State's program, which are analogous to the following Resource Conservation and Recovery Act rules found at Title 40 of the Code of Federal Regulations:

State Requirement	Federal Requirement
Michigan Administrative Code (MAC) Rule (R) 299.9101(t)*.	40 CFR 262.60(b)(2).
MAC R 299.9104(i)*	40 CFR 262.60.
MAC R 299.9109(e)*	40 CFR 262.60(b)(2).
MAC R 299.9205*	40 CFR 261.5.
MAC R 299.9206(1)*	40 CFR 261.6(a)(1).
MAC R 299.9206(5)*	40 CFR 264.11.
MAC R 299.9207(3)(b)(ii)*	40 CFR 261.7(b)(1)(iii)(B).
MAC R 299.9207(5)*	40 CFR 261.7(b)(3).
MAC R 299.9212(1)(a)*	40 CFR 261.21(a)(1).
MAC R 299.9306(1)(a)(i)*	40 CFR 262.34(a)(1)(i).
MAC R 299.9306(1)(a)(ii)*	40 CFR 262.34(a)(1)(ii).
MAC R 299.9306(1)(d)*	40 CFR 262.34(a)(4).
MAC R 299.9306(1)(e)*	40 CFR 262.34(a)(4).
MAC R 299.9306(2)*	40 CFR 262.34(c)(1).
MAC R 299.9306(3)*	40 CFR 262.34(b).
MAC R 299.9306(4)*	40 CFR 262.34(d).
MAC R 299.9306(4)(c)*	40 CFR 262.34(d)(2).
MAC R 299.9306(4)(i)(iii)*	40 CFR 262.34(d)(5)(iv)(C).
MAC R 299.9306(4)(j)*	40 CFR 262.34(d).
MAC R 299.9306(4)(k)*	40 CFR 262.34(d).
MAC R 299.9310(2)(a)*	40 CFR 262.60(b)(1).
MAC R 299.9503(1)(a)*	40 CFR 270.1(c)(2)(ii).
MAC R 299.9503(3)*	40 CFR 270.60(c).
MAC R 299.9503(3)(b)(iii)*	40 CFR 270.60.(c)(3)(iv).
MAC R 299.9506(1)(g)*	40 CFR 270.14(c)(4).
MAC R 299.9506(2)(a)(ii)*	40 CFR 270.14(c)(5) and 264.97(a).
MAC R 299.9506(2)(a)(v)*	40 CFR 270.14(c)(5) and 264.97(a).
MAC R 299.9506(2)(f)*	40 CFR 270.14(c)(5) and 264.97(a).
MAC R 299.9506(4)(d)*	40 CFR 270.14(c)(7)(iv) and 264.94(a).
MAC R 299.9511*	40 CFR 124.6
MAC R 299.9518(1)*	40 CFR 270.10(c) and 270.14(a).
MAC R 299.9518(4)*	40 CFR 124.10(c)(1)(i).
MAC R 299.9518(5)*	40 CFR 264.112(d)(3) and 265.112(d)(3).
MAC R 299.9518(6)*	40 CFR 264.112(d)(3) and 265.112(d)(3), 270.51(c)(2).
MAC R 299.9519(1)*	40 CFR 270.41.
MAC R 299.9601(2)(b)*	40 CFR 265.1(b) and 265.50.
MAC R 299.9601(2)(f)*	40 CFR 264.112(d)(3), 264.113, 40 CFR 265.112(d)(3), and 265.113.
MAC R 299.9601(2)(i)*	40 CFR 268.1.
MAC R 299.9601(4)*	40 CFR 264.1(d).

State Requirement	Federal Requirement
MAC R 299.9605(2)*	40 CFR 261.7.
MAC R 299.9607(2)*	40 CFR 264.56(d).
MAC R 299.9607(3)*	40 CFR 264.56(j).
MAC R 299.9611(2)(a)*	40 CFR 264.98.
MAC R 299.9611(3)(a)(iii)*	40 CFR 264.90(c)(3).
MAC R 299.9612(1)*	40 CFR 264.90(a).
MAC R 299.9612(1)(b)*	40 CFR 264.97.
MAC R 299.9612(1)(d)*	40 CFR 264.94(a).
MAC R 299.9612(1)(e)(i)*	40 CFR 264.97(h).
MAC R 299.9612(1)(f)*	40 CFR 264.99(a).
MAC R 299.9612(1)(h)*	40 CFR 264.90(b).
MAC R 299.9613(1)*	40 CFR 264.110.
MAC R 299.9613(2)*	40 CFR 264.112(d)(1).
MAC R 299.9613(3)*	40 CFR 264.115.
MAC R 299.9613(5)*	40 CFR 264.120.
MAC R 299.9615(2)(a)*	40 CFR 264.193(e).
MAC R 299.9615(3)*	40 CFR 264.192(a)(3).
MAC R 299.9619(1)*	40 CFR 264.316.
MAC R 299.9619(5)(a)(i)*	40 CFR 264.310.
MAC R 299.9619(5)(a)(ii)*	40 CFR 264.310.
MAC R 299.9619(6)*	40 CFR 264.316.
MAC R 299.9629(4)*	40 CFR 264.100 (a) and (b).
MAC R 299.9629(5)*	40 CFR 264.100(c).
MAC R 299.9629(6)*	40 CFR 264.100(d).
MAC R 299.9629(7)*	40 CFR 264.100(e).
MAC R 299.9629(8)*	40 CFR 264.100(f).
MAC R 299.9629(9)*	40 CFR 264.100(g).
MAC R 299.9629(10)*	40 CFR 264.100(h).

*Effective June 18, 1994

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on October 30, 1986; January 23, 1990; and June 24, 1991, the effective dates of Michigan's final authorizations for the RCRA base program and for the Non-HSWA Cluster I, Cluster II, and Cluster III revisions.

Michigan is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Michigan's application for program revision meets all the statutory and regulatory requirements established by RCRA. Accordingly, Michigan is granted final authorization to operate its hazardous waste program as revised. Michigan now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Michigan also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013, and 7003 of RCRA.

D. Incorporation by Reference

EPA incorporates by reference authorized State programs in part 272 of 40 CFR to provide notice to the public of the scope of the authorized program in each State. Incorporation by reference of these revisions to the Michigan program will be completed at a later date.

Compliance With Executive Order 12291

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

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that

may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Michigan's hazardous waste program referenced in today's notice will result in annual costs of $100 million or more.

EPA's approval of State programs generally have a deregulatory effect on the private sector because once it is determined that a State hazardous waste program meets the requirements of RCRA section 3006(b) and the regulations promulgated thereunder at 40 CFR part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved State may exercise. Such flexibility will reduce, not increase, compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved State hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR parts 264, 265, and 270. Once EPA authorizes a State to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved State program.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Michigan's program thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 Part 271

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

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

Dated: January 11, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–2724 Filed 2–7–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5418–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Clothier Disposal site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA), Region II, announces the deletion of the Clothier Disposal site from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that all appropriate responses under CERCLA have been implemented, and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of New York have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: February 8, 1996.

ADDRESSES: For further information contact: Herbert H. King, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th floor, New York, NY 10007–1866.

FOR FURTHER INFORMATION CONTACT: Herbert H. King at (212) 637–4268.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Clothier Disposal site, Granby, New York.

The closing date for comments on the Notice of Intent to Delete was October 15, 1995. EPA received one comment letter from the counsel for the Settling Defendants (a group of potentially responsible parties associated with the site who entered into a consent decree with the government to pay for the government's past costs and to remediate the site), indicating that the Settling Defendants support deleting the site from the NPL, and requesting that the description of the activities that were undertaken by the Settling Defendants after the discovery of three buried drums during the first long-term monitoring event at the site be amplified. EPA acknowledges the Settling Defendants' efforts subsequent to the discovery of three buried drums, which included a geophysical investigation in the area surrounding the drum-discovery site, the excavation of trenches through two magnetic anomalies identified by the geophysical investigation, the excavation of metallic debris discovered in one trench, and the off-site disposal of the metallic debris and the three buried drums. Based on these efforts and the associated findings, EPA concluded that no further remedial or investigatory work was necessary at the site.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund)-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425 (e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede EPA's efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 2, 1996.

William J. Muszynski,

Acting Regional Administrator.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321 (c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Clothier Disposal site, Granby, New York.

[FR Doc. 96–2718 Filed 2–7–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

[WO–310–00–1310–2411]

RIN 1004–AC26

Promotion of Development, Reduction of Royalty on Heavy Oil

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management is issuing this final rule to amend the regulations relating to the waiver, suspension, or reduction of rental, royalty, or minimum royalty. This action is being taken to promote the production of heavy oil. The amendment establishes the conditions under which the operators of properties that produce ''heavy oil'' (crude oil with a gravity of less than 20 degrees) can obtain a reduction in the royalty rate. The amendment should encourage the operators of Federal heavy oil leases to place marginal or uneconomical shut-in oil wells back in production, provide an economic incentive to implement enhanced oil recovery projects, and delay the plugging of these wells until the maximum amount of economically recoverable oil can be obtained from the reservoir or field.

DATES: This rule will be effective March 11, 1996.

ADDRESSES: Inquiries should be sent to: Director (140), Bureau of Land Management, Room 5558, Main Interior Building, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. John W. Bebout, Bureau of Land Management, (202) 452–0340.

SUPPLEMENTARY INFORMATION:

I. Introduction

A proposed rule to provide royalty relief for producers of heavy oil was published in the Federal Register notice of April 10, 1995 (60 FR 18081) with the comment period ending June 9, 1995. The comment period was reopened June 16, 1995 (60 FR 31663) and closed July 17, 1995.

On March 30, 1995, an outdated version of this proposed rule was published in the Federal Register (60 FR 16424) by mistake. That proposed rule publication was withdrawn, and the Federal Register notice of April 10, 1995 (60 FR 18081) was published in its place as the proposed rule.

The following are questions and answers designed to provide an introduction to this rule.

When does the Department of the Interior (Department) consider granting royalty relief?

In order to encourage the greatest ultimate recovery of oil and in the interest of conservation, the Secretary, upon a determination that it is necessary to promote development, may reduce the royalty on an entire leasehold or any portion thereof (Section 39 of the Mineral Leasing Act, 30 U.S.C. 209).

Existing section 3103.4–1 of Title 43, Code of Federal Regulations, provides two forms of Federal oil and gas royalty reduction—on a case-by-case basis upon application and for stripper wells. The provision concerning stripper well properties allows royalty reduction for properties that produce an average of less than 15 barrels of oil per eligible well per well-day.

The Bureau of Land Management (BLM) believes that royalty relief for producers of heavy crude oil is needed to promote the development of heavy oil.

Why is heavy oil royalty relief needed?

Above all, this royalty relief is needed to promote the development of heavy oil. Eliminating all royalties would be the most effective way to promote development, but that would jeopardize the Department's efforts in securing a fair return for public land resources. Royalty relief has to be considered in light of all the Department's responsibilities and objectives. The balance this rule strikes is to have a royalty rate that promotes development while ensuring the public receives reasonable compensation.

Cyclical swings in the price for crude oil are common. BLM believes that future price decreases are possible, or even likely. The effect of this rule will provide a buffer against these decreases for heavy oil produced from Federal land. As many as two-thirds of all marginal properties (including non-heavy oil properties) could be lost during a period of sustained low oil prices (Marginal Wells, A Report of the National Petroleum Council, 1994, p. 3). The danger in losing the marginal wells is that, although production from individual wells may be small, their collective production is significant, accounting for one-third of lower-48 State onshore domestic production. Heavy oil production, from both Federal and non-Federal lands, makes up almost one-half of this third (Marginal Wells, A Report of the National Petroleum Council, 1994, p. 50). Heavy oil wells typically incur higher production costs, thus increasing their vulnerability. Were these heavy oil wells abandoned, the United States would lose this significant portion of domestic production.

What will happen as a result of this rule?

This rule should encourage the operators of Federal heavy oil leases to place marginal or uneconomical shut-in oil wells back in production, provide an economic incentive to implement enhanced oil recovery projects, and delay the plugging of these wells until the maximum amount of economically recoverable oil can be obtained from the reservoir or field.

According to a Department of Energy (DOE) analysis of its TORIS (Tertiary Oil Recovery Information System) data, the size of economically recoverable reserves from Federal lands will be significantly enhanced by this amendment. For instance, at a West Texas Intermediate (WTI) crude oil price of $16 a barrel, DOE projects that this rule will increase recoverable reserves of about 54 million barrels to about 87 million barrels for the State of California. At $18 a barrel, DOE projects that this rule will increase recoverable reserves of about 103 million barrels to about 130 million barrels for the State of California. At $20 a barrel, DOE projects that this rule will increase recoverable reserves of about 133 million barrels to about 229 million barrels for the State of California. A proportionately larger increase in recoverable reserves is anticipated when oil prices range toward $20 a barrel because major recovery projects may

become economically feasible. Were this rule not promulgated, DOE projects these increases in recoverable reserves would most likely not occur.

Since the State of California produces almost 91 percent of lower-48 State onshore heavy oil production, the vast majority of recoverable reserve increases stemming from this royalty relief will most likely come from this State. Significant recoverable reserve increases are not anticipated in the other States since fewer properties will qualify for the relief.

When will this rule apply?

The rule will take effect March 11, 1996. However, the BLM may suspend or terminate all royalty reductions granted under this rule and terminate the availability of further relief under this rule—

(1) upon 6 month's notice in the Federal Register when BLM determines that the average WTI oil price has remained above $24 per barrel over a period of 6 consecutive months or

(2) after September 10, 1999, if the royalty rate reductions authorized by this rule have not been effective in reducing the loss of otherwise recoverable reserves.

How will this royalty relief affect royalties and revenues?

According to the DOE TORIS analysis, although oil royalties may decline in some instances, the effects to overall Federal and State revenues should be largely neutral except in the State of California. (Revenues include all forms of income including royalties.) Slight decreases in overall revenue could be possible at some oil prices for States with moderate levels of heavy oil production. In California, the DOE analysis projects small decreases or sizable increases in State revenues depending on the price of oil (Letter Report from Department of Energy dated July 29, 1994).

II. Summary of Rule Adopted

The final rule establishes a sliding scale royalty rate for qualifying heavy-oil-producing properties. The sliding scale is intended to somewhat offset the reduced prices paid for oil as oil gravity decreases. The reduced royalty rate applies to qualifying heavy oil properties rather than individual wells, because production is normally not reported for individual oil wells, and is based on the average gravity of the oil weighted by the production of heavy oil from each well within the property. A weighted average gravity is used to prevent gravity manipulation by selectively producing wells on a property with heavier gravity crude. Using a weighted average of oil gravity encourages maximum recovery from all wells within a property by removing the economic advantage of selective production.

The rule provides that either the operator (as defined at 43 CFR 3100.0–5) or the payor (as defined at 30 CFR 208.2) must calculate the weighted average gravity of the oil—measured on the American Petroleum Institute (API) scale—produced from a property every 12 months to determine the appropriate royalty rate. In no case, however, would the royalty rate exceed the rate established by the terms of the lease.

The section amended by this rule also provides for royalty rate reductions for stripper oil wells. Some provisions of this final rule are similar to the provisions of the existing regulations that pertain to stripper wells.

The final rule was modified in response to comments and for clarification. Section 3103.4 was redesigned to aid the reader in distinguishing the various forms of royalty reduction and accompanying provisions. Separate sections were established for the stripper oil and heavy oil royalty reduction provisions. The discussion of royalty rate determinations in § 3103.4–3(b)(5) was modified by adding two examples and clarifying the text. Section 3103.4–3(b)(6) was modified to extend the review period until 1999. Cross references were modified where appropriate throughout Part 3100 to reflect the redesign of § 3103.4.

III. Responses to Public Comments

A total of 209 comments were received on the proposed rule. An overwhelming majority supported the proposed rule. A few commenters recommended changes.

Comments suggested that the review period be extended for a period of 4 or 5 years rather than the 2 years stated in the proposed rule. It was always the BLM's intention that the rule be in place at least 4 years before it was evaluated. Unanticipated delays in the rulemaking process, however, have rendered the original 1997 deadline unreasonably short. Therefore, the BLM concurs with this suggestion and the rule has been modified to extend the review period until 1999.

A comment stated that the $24 trigger for rule suspension was too high while another comment stated that $24 was too low. Based on data developed from DOE's TORIS database, the BLM believes that $24 is an appropriate trigger to suspend the rule. The data indicate that State and Federal Royalty reductions are offset by increased recoverable reserves up until the point that WTI crude oil prices reach approximately $24/bbl. Past that point, recoverable reserve increases appear to taper off. In addition, the TORIS data show that when WTI prices climb above $24/bbl the royalty reduction is no longer a determining factor for decisions regarding investments in enhanced oil recovery techniques.

Comments suggested that the CFR 3103.4–1 regulations be revised for clarity and simplicity. The BLM agrees and has revised the section for clarity.

A comment suggested that the qualifying period for a heavy oil royalty rate reduction coincide with the one established for a stripper oil property royalty reduction. While the BLM agrees that there is value in making the stripper and heavy oil royalty rate reduction processes as similar as possible, this is not always practicable. The heavy oil rule qualifying period was made flexible in order to acknowledge the fact that many qualifying, low-production properties may not remove or sell oil every month even if their production is continuous. Thus, many properties may require even more than a calendar year (the stripper property qualifying period) to accumulate 3 months of sales or oil removal.

One comment requested that the notification period for requesting a reduced royalty rate be extended beyond the proposed 60 days. The BLM believes that 60 days is sufficient time for an operator to notify the BLM of a new royalty rate. The stripper property royalty reduction program has a similar notification period which appears to be working well.

Some comments stated that a greater royalty rate reduction was necessary. They suggested that this be accomplished by using a power curve rather than a straight line to calculate royalty rates. The BLM considered calculating royalty rates by both power curves and straight-line methods. The DOE's TORIS data, however, indicated that neither method was clearly advantageous over the other in terms of increasing recoverable reserves except within a narrow range of WTI crude oil prices. Because it is not possible to predict future oil prices, the BLM has chosen to remain with a straight-line royalty reduction for purposes of simplicity as well as to parallel the stripper property royalty reduction rule.

Some comments stated that the rule should use 25 degrees as a ''heavy oil'' cutoff (rather than the 20 degrees proposed) in order to maximize the rule's effects and to provide the rule's benefits to as many operators as possible. Although there is no single accepted definition for ''heavy oil,''

standard academic and industry practice is to reserve the term for crude oils of less than 20 degrees API. The U.S. tax code also uses a 20 degree definition.

One comment stated that BLM should evaluate the stripper oil royalty reduction before granting heavy oil royalty relief. The BLM is in the process of evaluating the stripper well provisions. The stripper well provisions have not been in place long enough to make a substantive assessment.

One comment strongly opposed heavy oil royalty relief, stating that the BLM has no data which demonstrate that the leases eligible for the relief cannot be operated successfully under the lease terms or that the continued operation of each heavy crude lease is in serious, unavoidable jeopardy. Although this is an important consideration, this is not the criterion for relief that is serving as the basis of this determination. The Secretary, acting through the Assistant Secretary—Land and Minerals Management, concludes, based on the DOE analysis cited in the introduction, that this rule is necessary to promote the development of heavy oil. Recoverable reserves are projected to be significantly less in the absence of the royalty relief provided by this rule.

One comment stated that this rule will provide insufficient relief on leases in true jeopardy and windfalls for those without need. The BLM believes that there are enough similarities in terms of the economic pressures on producers of heavy oil that any such relative disparities in levels of relief should be inconsequential. Furthermore, the rule is sensitive to the particular gravity of the heavy oil being produced, so that producers of less valuable heavy oil receive a higher proportion of royalty relief.

One comment stated that even if State revenues increase, royalty reductions will hurt State services. (Revenues include all forms of income including royalties.) According to the DOE analysis, the effects to Federal and State revenues should be largely neutral. Slight royalty decreases could be possible at some oil prices for States with moderate levels of heavy oil production.

In California, where almost 91 percent of the heavy oil production takes place, the DOE analysis generally projects small to moderate decreases in royalties. For instance, at $16 a barrel (WTI), DOE projects that this rule will decrease California royalties by about $3.5 million, while increasing California public sector revenue by about $15 million. At $18 a barrel (WTI), DOE projects that this rule will decrease California royalties by about $24 million, while decreasing California public sector revenue by about $1 million. At $20 a barrel (WTI), DOE projects that this rule will increase California royalties by about $1 million, while increasing California public sector revenue by about $104 million. The wide variations in sensitivity to the price of oil are due to numerous variables, including the propensity for oil companies to invest in major recovery projects at certain oil prices. (Letter Report from Department of Energy dated July 29, 1994.)

IV. Procedural Matters

This rule is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102 (2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

This rule has been reviewed under Executive Order 12866.

The BLM has determined that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The BLM has prepared a regulatory flexibility analysis. It is available upon request from the address listed at the beginning of this rule. Additionally the BLM has determined, under Executive Order 12630, that the rulemaking will not cause a taking of private property.

The BLM has certified that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

The information collection requirements of this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1010–0090 and 1004–0145.

The principal author of this final rule is Dr. John W. Bebout, Senior Technical Specialist, Fluids Group, assisted by Charles Hunt of the Regulatory Management Team, Bureau of Land Management.

List of Subjects for 43 CFR Part 3100

Land Management Bureau, Public Lands—mineral resources, Oil and gas production, Mineral royalties.

For the reasons stated in the preamble, and under the authorities cited below, Part 3100, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below:

V. Regulatory Text

PART 3100—OIL AND GAS LEASING

1. The authority citation for part 3100 continues to read as follows:

Authority: 30 U.S.C. 181, *et seq.*, 30 U.S.C. 351–359.

Subpart 3103—Fees, Rentals and Royalty

§ 3103.2–2 [Amended]

2.–3. Section § 3103.2–2 is amended by removing the cross reference ''§ 3103.4–2(d)'' in the introductory text and adding in its place the cross reference ''§ 3103.4–4(d).''

4. § 3103.4 is amended by revising the heading to read as follows:

§ 3103.4 Production incentives.

§ 3103.4–2 [Redesignated as § 3103.4–4]

5. Section 3103.4–2 is redesignated as § 3103.4–4.

6. Section 3103.4–1 is amended by redesignating paragraphs (c) and (d) as paragraphs (a) and (b) of a new § 3103.4–2, ''Stripper well royalty reductions.'' Section 3103.4–1 is further amended by redesignating paragraph (e) as (c), and revising the section heading and paragraph (b)(1) to read as follows:

§ 3103.4–1 Royalty reductions.

* * * * *

(b)(1) An application for the benefits under paragraph (a) of this section on other than stripper oil well leases or heavy oil properties must be filed by the operator/payor in the proper BLM office. (Royalty reductions specifically for stripper oil well leases or heavy oil properties are discussed in § 3103.4–2 and § 3103.4–3 respectively.) The application must contain the serial number of the leases, the names of the record title holders, operating rights owners (sublessees), and operators for each lease, the description of lands by legal subdivision and a description of the relief requested.

7. Newly designated § 3103.4–2, paragraph (b)(3)(iii)(A) is amended by removing the cross reference ''(d)(3)(ii)'' and adding in its place the cross reference ''(b)(3)(ii).''

8. A new § 3103.4–3 is added to read as follows:

§ 3103.4–3 Heavy oil royalty reductions.

(a)(1) A heavy oil well property is any Federal lease or portion thereof segregated for royalty purposes, a communitization area, or a unit participating area, operated by the same operator, that produces crude oil with a weighted average gravity of less than 20 degrees as measured on the American Petroleum Institute (API) scale.

(2) An oil completion is a completion from which the energy equivalent of the oil produced exceeds the energy equivalent of the gas produced (including the entrained liquefiable hydrocarbons) or any completion producing oil and less than 60 MCF of gas per day.

(b) Heavy oil well property royalty rate reductions will be administered according to the following requirements and procedures:

(1) The Bureau of Land Management requires no specific application form for the benefits under paragraph (a) of this section for heavy oil well properties. However, the operator/payor must notify, in writing, the proper BLM office that it is seeking a heavy oil royalty rate reduction. The letter must contain the serial number of the affected leases (or, as appropriate, the communitization agreement number or the unit agreement name); the names of the operators for each lease; the calculated new royalty rate as determined under paragraph (b)(2) of this section; and copies of the Purchaser's Statements (sales receipts) to document the weighted average API gravity for a property.

(2) The operator must determine the weighted average API gravity for a property by averaging (adjusted to rate of production) the API gravities reported on the operator's Purchaser's Statement for the last 3 calendar months preceding the operator's written notice of intent to seek a royalty rate reduction, during each of which at least one sale was held. This is shown in the following 3 illustrations:

(i) If a property has oil sales every month prior to requesting the royalty rate reduction in October of 1996, the operator must submit Purchaser's Statements for July, August, and September of 1996;

(ii) If a property has sales only every 6 months, during the months of March and September, prior to requesting the rate reduction in October of 1996, the operator must submit Purchaser's Statements for the months of September 1995, and March and September 1996; and

(iii) If a property has multiple sales each month, the operator must submit Purchaser's Statements for every sale for the 3 entire calendar months immediately preceding the request for a rate reduction.

(3) The following equation must be used by the operator/payor for calculating the weighted average API gravity for a heavy oil well property:

$$\frac{(V_1 \times G_1) + (V_2 \times G_2) + (V_n \times G_n)}{V_1 + V_2 + V_n} = \text{Weighted Average API gravity for a property}$$

Where:

V_1=Average Production (bbls) of Well #1 over the last 3 calendar months of sales

V_2=Average Production (bbls) of Well #2 over the last 3 calendar months of sales

V_n=Average Production (bbls) of each additional well (V_3, V_4, etc.) over the last 3 calendar months of sales

G_1=Average Gravity (degrees) of oil produced from Well #1 over the last 3 calendar months of sales

G_2=Average Gravity (degrees) of oil produced from Well #2 over the last 3 calendar months of sales

G_n=Average Gravity (degrees) of each additional well (G_3, G_4, etc.) over the last 3 calendar months of sales

Example: Lease ''A'' has 3 wells producing at the following average rates over 3 sales months with the following associated average gravities: Well #1, 4,000 bbls, 13° API; Well #2, 6000 bbls, 21° API; Well #3, 2,000 bbls, 14° API. Using the equation above—

$$\frac{(4{,}000 \times 13) + (6{,}000 \times 21) + (2{,}000 \times 14)}{(4{,}000 + 6{,}000 + 2{,}000)} = 17.2 \text{ Weighted Average API gravity for property}$$

(4) For those properties subject to a communitization agreement or a unit participating area, the weighted average API oil gravity for the lands dedicated to that specific communitization agreement or unit participating area must be determined in the manner prescribed in paragraph (b)(3) of this section and assigned to all property subject to Federal royalties in the communitization agreement or unit participating area.

(5) The operator/payor must use the following procedures in order to obtain a royalty rate reduction under this section:

(i) *Qualifying royalty rate determination.*

(A) The operator/payor must calculate the weighted average API gravity for the property proposed for the royalty rate reduction in order to verify that the property qualifies as a heavy oil well property.

(B) Properties that have removed or sold oil less than 3 times in their productive life may still qualify for this royalty rate reduction. However, no additional royalty reductions will be granted until the property has a sales history of at least 3 production months (see paragraph (b)(2) of this section).

(ii) *Calculating the qualifying royalty rate.* If the Federal leases or portions thereof (e.g., communitization or unit agreements) qualify as heavy oil property, the operator/payor must use the weighted average API gravity rounded down to the next whole degree (e.g., 11.7 degrees API becomes 11 degrees), and determine the appropriate royalty rate from the following table:

ROYALTY RATE REDUCTION FOR HEAVY OIL

Weighted average API gravity (degrees)	Royalty Rate (percent)
6	0.5
7	1.4
8	2.2
9	3.1
10	3.9
11	4.8
12	5.6
13	6.5
14	7.4
15	8.2
16	9.1
17	9.9
18	10.8

ROYALTY RATE REDUCTION FOR HEAVY OIL—Continued

Weighted average API gravity (degrees)	Royalty Rate (percent)
19	11.6
20	12.5

(iii) *New royalty rate effective date.* The new royalty rate will be effective on the first day of production 2 months after BLM receives notification by the operator/payor. The rate will apply to all oil production from the property for the next 12 months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). If the API oil gravity is 20 degrees or greater, the royalty rate will be the rate in the lease terms.

Example: BLM receives notification from an operator on June 8, 1996. There is a two month period before new royalty rate is

effective—July and August. New royalty rate is effective September 1, 1996.

(iv) *Royalty rate determinations in subsequent years.*

(A) At the end of each 12-month period, beginning on the first day of the calendar month the royalty rate reduction went into effect, the operator/payor must determine the weighted average API oil gravity for the property for that period. The operator/payor must then determine the royalty rate for the following year using the table in paragraph (b)(5)(ii) of this section.

(B) The operator/payor must notify BLM of its determinations under this paragraph and paragraph (b)(5)(iv)(A) of this section. The new royalty rate (effective for the next 12 month period) will become effective the first day of the third month after the prior 12 month period comes to a close, and will remain effective for 12 calendar months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). Notification must include copies of the Purchaser's Statements (sales receipts) and be mailed to the proper BLM office. If the operator does not notify the BLM of the new royalty rate within 60 days after the end of the subject 12-month period, the royalty rate for the heavy oil well property will return to the rate in the lease terms.

Example: On September 30, 1997, at the end of a 12-month royalty reduction period, the operator/payor determines what the weighted average API oil gravity for the property for that period has been. The operator/payor then determines the new royalty rate for the next 12 month using the table in paragraph (b)(5)(ii) of this section. Given that there is a 2-month delay period for the operator/payor to calculate the new royalty rate, the new royalty rate would be effective December 1, 1997 through November 30, 1998 (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined—December 1, 1998 through January 31, 1999).

(v) *Prohibition.* Any heavy oil property reporting an API average oil gravity determined by BLM to have resulted from any manipulation of normal production or adulteration of oil sold from the property will not receive the benefit of a royalty rate reduction under this paragraph (b).

(vi) *Certification.* The operator/payor must use the applicable royalty rate when submitting the required royalty reports/payments to the Minerals Management Service (MMS). In submitting royalty reports/payments using a royalty rate reduction authorized by this paragraph (b), the operator/payor must certify that the API oil gravity for the initial and subsequent 12-month periods was not subject to manipulation or adulteration and the royalty rate was determined in accordance with the requirements and procedures of this paragraph (b).

(vii) *Agency action.* If an operator/payor incorrectly calculates the royalty rate, the BLM will determine the correct rate and notify the operator/payor in writing. Any additional royalties due are payable to MMS immediately upon receipt of this notice. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102. The BLM will terminate a royalty rate reduction for a property if BLM determines that the API oil gravity was manipulated or adulterated by the operator/payor. Terminations of royalty rate reductions for individual properties will be effective on the effective date of the royalty rate reduction resulting from a manipulated or adulterated API oil gravity so that the termination will be retroactive to the effective date of the improper reduction. The operator/payor must pay the difference in royalty resulting from the retroactive application of the non-manipulated rate. The late payment or underpayment charges will assessed in accordance with 30 CFR 218.102.

(6) The BLM may suspend or terminate all royalty reductions granted under this paragraph (b) and terminate the availability of further heavy oil royalty relief under this section—

(i) Upon 6 month's notice in the Federal Register when BLM determines that the average oil price has remained above $24 per barrel over a period of 6 consecutive months (based on the WTI Crude average posted prices and adjusted for inflation using the implicit price deflator for gross national product with 1991 as the base year), or

(ii) After September 10, 1999, if the Secretary determines the royalty rate reductions authorized by this paragraph (b) have not been effective in reducing the loss of otherwise recoverable reserves. This will be determined by evaluating the expected versus the actual abandonment rate, the number of enhanced recovery projects, and the amount of operator reinvestment in heavy oil production that can be attributed to this rule.

(7) The heavy oil well property royalty rate reduction applies to all Federal oil produced from a heavy oil property.

(8) If the lease royalty rate is lower than the benefits provided in this heavy oil well property royalty rate reduction program, the lease rate prevails.

(9) If the property qualifies for a stripper well property royalty rate reduction, as well as a heavy oil well property reduction, the lower of the two rates applies.

(10) The operator/payor must separately calculate the royalty for gas production (including condensate produced in association with gas) from oil completions using the lease royalty rate.

(11) The minimum royalty provisions of § 3103.3–2 will continue to apply.

§ 3140.1–4 [Amended]

9. Section § 3140.1–4(c)(3) is amended by removing the cross reference ''§ 3103.4–1'' and adding in its place the cross reference ''§ 3103.4.''

§ 3165.1 [Amended]

10. Section § 3165.1(b) is amended by removing the cross reference ''§ 3103.4–2'' and adding in its place the cross reference ''§ 3103.4–4.''

Dated: November 8, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–2433 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–84–P

43 CFR Public Land Order 7183

[OR–943–1430–01; GP5–194; OR–22189 (WASH)]

Revocation of Secretarial Order of June 17, 1908; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew 50 acres of National Forest System land for use by the Forest Service, Department of Agriculture, for the Laurier Administrative Site. The land is no longer needed for this purpose and the revocation is needed to permit disposal of the land through exchange. This action will open the land to surface entry, subject to Section 24 of the Federal Power Act. The land is temporarily closed to mining by the Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Secretarial Order dated June 17, 1908, which withdrew the following

described land is hereby revoked in its entirety:

Willamette Meridian

Colville National Forest

T. 40 N., R. 36 E.,
Sec. 3, SE¼SW¼SE¼ and SE¼SE¼.
The area described contains 50 acres in Ferry County.

2. At 8:30 a.m. on March 11, 1996, the lands will be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, the provisions of Section 24 of the Federal Power Act, other segregations of record, and the requirements of applicable law.

Dated: January 26, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–2648 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–33–P

Proposed Rules

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

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

Rural Utilities Service

7 CFR Part 1755

Telecommunications Program—Postloan Engineering Service Contract

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On December 27, 1995, the Rural Utilities Service (RUS) published a proposed rule to amend its contract for the procurement of postloan engineering services for telecommunications systems. In response to requests from members of the public, RUS is extending the comment period on this regulation.

DATES: Written comments and recommendations must be received by RUS by March 11, 1996.

ADDRESSES: Written comments should be addressed to Mr. Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, AG Box 1598, 14th and Independence Ave., SW, Washington, DC 20250–1598. RUS requires a signed original and three copies of all comments (7 CFR 1700.30(e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Mr. Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, room 2835–S, at the above address. Telephone: (202) 720–8663.

SUPPLEMENTARY INFORMATION: On December 27, 1995, at 60 FR 66936, the Rural Utilities Service published a proposed rule on 7 CFR Part 1755, Telecommunications Program—Postloan Engineering Service Contract to amend its contract for the procurement of postloan engineering services for telecommunications systems. The proposed rule had a 30-day period for public comments which ends on January 26, 1996. Because of exceptionally harsh weather and a mid-holiday proposed rule publishing date the public requested more time to prepare responses. To accommodate commenters and improve the quality of the final rule, RUS is extending this public comment period. The new comment period will expire on March 11, 1996.

Dated: February 1, 1996.

Wally Beyer,

Administrator.

[FR Doc. 96–2673 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

[Docket No. PRM–35–13]

National Registry of Radiation Protection Technologists; Receipt of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the National Registry of Radiation Protection Technologists (NRRPT). The petition has been docketed by the Commission and assigned Docket No. PRM–35–13. The petitioner requests that the NRC amend its regulations by including acceptance of NRRPT registration as fulfilling some of the training requirements for a radiation safety officer. The petitioner believes that this amendment would support the objectives of the NRRPT and provide a substantial qualified resource to the medical community throughout the United States.

DATES: Submit comments by April 23, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except to those comments received on or before this date.

ADDRESSES: For a copy of the petition, write: Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Docketing and Services Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For information on sending comments by electronic format, see ''Electronic Access,'' under the Supplementary Information section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–7163, or Toll Free: 800–368–5642, or e-mail MTL@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background Information

The NRC's training and experience requirements to be a Radiation Safety Officer (RSO) at a medical institution licensed by the NRC are described in 10 CFR Part 35, Subpart J—Training and Experience Requirements, § 35.900, Radiation Safety Officer. Specifically, an applicant must meet the requirements in §§ 35.900(a), 35.900(b) or 35.900(c).

The regulations in § 35.900(a) provide a list of acceptable certification boards (e.g., American Board of Health Physics in Comprehensive Health Physics; American Board of Radiology) for an individual to be qualified to work as an RSO at a medical institution licensed by the NRC.

The NRC regulations in § 35.900(b) are the subject of this petition and are as follows:

''Except as provided in § 35.901, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in § 35.32 to be an individual who:

* * * * *

''(b) Has had classroom and laboratory training and experience as follows:

''(1) 200 hours of classroom and laboratory training that includes:

''(i) Radiation physics and instrumentation;

''(ii) Radiation protection;

''(iii) Mathematics pertaining to the use and measurement of radioactivity;

''(iv) Radiation biology; and

''(v) Radiopharmaceutical chemistry; and

''(2) One year of full time experience as radiation safety technologist at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on a Commission or Agreement State license that authorizes the medical use of byproduct material; or * * *.''

The NRC regulations in § 35.900(c) permit an authorized user (i.e., a physician, dentist, or podiatrist) identified on the licenses's license to serve as the RSO.

The Petitioner

The petitioner is the National Registry of Radiation Protection Technologists (NRRPT). NRRPT was incorporated in 1976 as a nonprofit organization and has a current membership of 3255. The petitioner states its objective is to encourage and promote the education and training of radiation protection technologists and, in so doing, promote and advance the science of health physics.

Receipt of Petition for Rulemaking

The NRC received the NRRPT petition for rulemaking on November 24, 1995. The petition is dated November 17, 1995, and was docketed as PRM–35–13 on November 27, 1995.

Petitioner's Request

The petitioner requests that the NRC amend its regulations in 10 CFR 35.900 specifying training and experience requirements for a radiation safety officer. Specifically, the petitioner requests that the NRC accept NRRPT registration for the current requirement of 200 hours of classroom and laboratory training, as specified in § 35.900(b)(1), and for nine months of the current one year requirement specified in § 35.900(b)(2).

The petitioner states that the NRRPT Certificate of Registration certifies that its holder has met general requirements and passed a multiple choice comprehensive examination to test competence in fundamental concepts required as a Radiation Protection Technologist.

The general requirements an applicant for registration must meet are as follows:

1. The applicant shall have a high school diploma or equivalent.

2. The applicants' minimum age at the time of application shall be 21 years.

3. An applicant must have a minimum of five (5) years experience in applied radiation protection. Credit, up to a maximum of two (2) years, for formal education, company training programs and military training programs applicable to the field of radiation protection may be substituted for experience.

4. An applicant must provide two references recommending the applicant for approval to take the NRRPT Registration Examination.

The petitioner states that each successful applicant is also required to pass a broad-based multiple choice examination on radiation protection. The subject categories and the associated knowledge factors used by the petitioner are as follows:

Applied Radiation Protection: Surveys and Inspections; Emergency Preparedness; Evaluating Internal and External Exposures and Controls; Prescribed Dosimetry and Radiation Equipment; Contamination Control; Radioactive Material Control and Transportation; Guides and Regulation; and Procedures and Programs (ALARA);

Detection and Measurement: Analytical Methods; Instrument Calibration and Maintenance; Personnel Dosimetry; and Equipment Operation;

Fundamentals: Sources of Radiation; Biological Effects; Mathematics Chemistry; Physics; and Units and Terminology.

The petitioner states that the examination consists of one-hundred fifty ''multiple choice'' type questions based on these elements.

Discussion of the Petition

The petitioner states that one of the minimum qualifications for NRRPT registration is 5 years experience as a radiation protection technologist. For some registered members, the requirement of § 35.900(b)(2) either currently or as amended in accordance with this petition, may be included in their historical work experience upon application for registration. For those individuals (who are registered in the NRRPT and have three months experience in a medical institution), the petitioner believes that the requirement of § 35.900(b)(2) would be satisfied and need not be repeated prior to eligibility for Radiation Safety Officer at NRC or Agreement State licensed medical facilities.

The petitioner believes that for individuals completing 200 hours of classroom and laboratory training required under the current requirement of § 35.900(b)(2), the one year full-time work experience as a radiation safety technologist at a medical institution is appropriate and necessary for hands-on operational experience. The petitioner states that the previous work experience and qualifications for some registered members of the NRRPT may be reviewed and found acceptable for upper level job classifications such as specialist or health physicist positions, depending on the job requirements, job descriptions, and the needs of the employer.

The petitioner believes that language should be included in current § 35.900 to allow for work in upper-level positions to minimize a potential conflict between the specific regulatory requirement for job title and the potential availability of upper-level employment for registered members.

The petitioner acknowledges that acceptance for radiation safety officers at licensed medical facilities is based on NRC's review of an applicant's credentials and experience. The petitioner believes that the applicant's credentials and experience may be mitigated at the time of the NRC's review. However, the petitioner believes that the current § 35.900 allows that certain opportunities for NRRPT, as well as the job applicant, may be waived due to an overly restrictive job title.

In support of the petition, the petitioner has provided a statement of the general requirements necessary for an individual to apply for registration as a radiation protection technologist, a copy of their bylaws, and a copy of the application package.

The Petitioner's Proposed Amendment

The petitioner recommends the following amendments to 10 CFR Part 35.

1. In § 35.900, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

§ 35.900 Radiation Safety Officer.

* * * * *

(b) Is registered by the National Registry of Radiation Protection Technologists and has had three months full-time experience as a radiation safety technologist or radiation safety specialist at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on a Commission or Agreement State license that authorizes the use of byproduct material; or

* * * * *

Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or

directly via Internet. Background documents on the petition for rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555–0001, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Single copies of this petition for rulemaking may be obtained by written request or telefax ((301) 415–5144) from: Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001. Certain documents related to this petition for rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this petition for rulemaking as indicated above.

Dated at Rockville, Maryland, this 2nd day of February 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle

Secretary of the Commission.

[FR Doc. 96–2699 Filed 2–7–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–89–AD]

Airworthiness Directives; Beech Aircraft Corporation Model 58P and 58PA Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Beech Aircraft Corporation (Beech) Model 58P and 58PA airplanes. The proposed action would require inspecting for cracks and missing rivets in the cabin structure (longeron) adjacent to and aft of the second right hand cabin window, and repairing any cracked structure and installing rivets, if missing. The Federal Aviation Administration (FAA) has received reports of airplanes with cracks in the cabin structure. The airplanes are missing rivets that should have been installed in the cabin structure to secure the frame, splice, and longeron together. The missing rivets, which could lead to cabin structure cracks, prompted the proposed AD action. The actions specified by the proposed AD are intended to prevent structural damage to the cabin caused by missing rivets, which if not corrected, could cause decompression injuries to passengers, structural damage to the fuselage, and loss of the airplane.

DATES: Comments must be received on or before April 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–89–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: David Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4129, facsimile (316) 946–4407.

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 Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–89–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–89–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received reports of cracks in the fuselage on Beech airplane Models 58P and 58PA. Upon investigating the source of the cracks, FAA has learned that four rivets attaching the longeron to the frame and splice had been omitted during the manufacturing process in some of these airplanes. These four rivets are installed to secure the cabin structure to the airplane frame and splice. Without the rivets in place to reinforce the area around the cabin windows, cracking can occur in this area resulting in possible cabin decompression or structural failure of the fuselage.

Beech Service Bulletin (SB) No. 2630, Issued: November, 1995, specifies procedures for inspecting for cracks and repairing any cracks found in the longeron around certain cabin windows, and installing any rivets, if missing.

After examining the circumstances and reviewing all available information related to the reports described above, including the referenced service information, the FAA has determined that AD action should be taken to prevent structural damage to the cabin caused by missing rivets, which if not corrected, could cause decompression injuries to passengers, structural damage to the fuselage, and loss of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech 58P and 58PA airplanes of the same type design, the proposed AD would require inspecting the cabin window upper longeron (next to the upper aft splice) between the second and third right hand windows for cracks and missing rivets, repairing any cracks found, and installing rivets if missing. Accomplishment of the proposed action would be in accordance with Beech SB No. 2630, Issued: November, 1995.

The FAA estimates that 386 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours to accomplish the inspection and that the average labor rate is approximately $60 an hour. In estimating the total cost impact of the proposed AD on U.S. operators, the FAA is only using the proposed inspection criteria (3 workhours). This estimate is based on the assumption that no affected airplane will have missing rivets or a cracked longeron.

Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $69,480 or $180 per airplane.

If during the proposed inspection cracks are found and rivets are missing, the estimated costs for accomplishing the following proposed actions would be:

—2 workhours to install rivets at an estimated cost of $125 per airplane ($120 for labor and $5 for rivets) and,
—8 workhours to repair any crack in the desiginated area at an estimated cost of $675 per airplane ($480 for labor and $195 for parts).

Beech has informed FAA that parts have been distributed to equip approximately 19 airplanes. Assuming that each set of these parts is installed on an affected airplane, the estimated cost impact of the proposed AD on U.S. operators would be reduced by $3,420 from $59,480 to $66,060.

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 the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Beech Aircraft Corporation: Docket No. 95–CE–89–AD.

Applicability: Models 58P and 58PA airplanes, having the following serial numbers, and certificated in any category:

TJ–2 through TJ–177
TJ–179
TJ–181 through TJ–212
TJ–214 through TJ–270
TJ–272 through TJ–283
TJ–285 through TJ–288
TJ–290 through TJ–313
TJ–315 through TJ–321
TJ–323, TJ–324
TJ–326 through TJ–368, and
TJ–370 through TJ–497

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished:

To prevent structural damage to the cabin caused by missing rivets, which if not corrected, could cause decompression injuries to passengers, structural failure of the fuselage, and loss of the airplane, accomplish the following:

(a) Inspect cabin window upper longeron (next to the upper aft splice) between the second and third right hand cabin side windows for cracks and missing rivets in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2630, Issued: November 1995.

(1) If cracks are found in the longeron, prior to further flight, repair the cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2630, Issued: November 1995.

(2) If rivets are found missing, prior to further flight, install the rivets in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2630, Issued: November 1995.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviations Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 2, 1996.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2683 Filed 2–7–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF EDUCATION

34 CFR Part 646

RIN 1840–AC24

Student Support Services Program

AGENCY: Department of Education.

ACTION: Reopening of comment period.

SUMMARY: On December 17, 1995, the Department of Education published in the Federal Register a notice of proposed rulemaking (NPRM) for the Student Support Services program (60 FR 64108). The comment period for the NPRM ended on January 12, 1996.

The Department has received requests from the National, regional and State associations for the program and potential grantees for an extension of the comment period on the NPRM. A longer comment period would give these interested parties an opportunity for dialogue with program staff regarding technical clarification and substantive inquiries prior to submitting comments. The Department believes this approach would improve the quality of information available for rulemaking, so the Secretary is reopening the comment period.

DATES: Comments must be received on or before February 22, 1996.

ADDRESSES: All comments concerning this notice or the notice of proposed rulemaking should be addressed to Steven G. Pappas, U.S. Department of Education, 600 Independence Avenue, S.W., Suite 600D, Portals Building, Washington, D.C. 20202–5249. Comments may also be sent through the Internet to TRIO@ed.gov.

FOR FURTHER INFORMATION CONTACT: Virginia A. Mason, Division of Student Services, U.S. Department of Education, 600 Independence Avenue, S.W., The Portals Building, Suite 600D, Washington, D.C. 20202–5249. Telephone (202) 708–4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: January 24, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–2713 Filed 2–7–96; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 268, 271, and 302

[FRL–5418–8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Environmental Protection Agency (EPA) is today issuing a technical correction of the proposed rule published on November 20, 1995 (60 FR 57747). EPA is issuing this technical correction to address the incorrect proposed treatment standard for a proposed newly identified hazard waste containing the constituent dibenz(a,h)anthracene, to restate correctly the self-implementing provision of the prohibition on land disposal of newly listed and identified wastes, and to make other typographical corrections.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/Superfund Hotline, toll free, at (800)424–9346, or at (703)920–9810. For technical information concerning this notice, contact Mr. Maximo Diaz, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–4786.

SUPPLEMENTARY INFORMATION: On November 20, 1995, the EPA proposed the hazardous listing determination of a number of wastes from the petroleum refining industry. As part of that action, the Agency proposed treatment standards for the proposed newly identified hazardous wastes. For the K170 wastestream, the Agency inadvertently stated the treatment standard for the constituent dibenz(a,h)anthracene as .0055 mg/L. The correct concentration of 0.055 mg/L should have appeared in Table V–1 (page 57787) and in the regulatory text at § 268.40 (page 57797), and is being corrected to so read.

Under RCRA section 3004(g)(4)(C), additional land disposal prohibitions for wastes identified under RCRA section 3001 shall take place by the date six months after the date of such identification or listing. In accordance with section 3004(g)(4)(C), the effective date of additional land disposal restrictions on the proposed newly identified wastes should have indicated six months after the effective date of the final rule in § 271.1(j) Table 2—Self-Implementing Provisions of the Solid Waste Amendments of 1984 on page 57799. This table is being corrected to so read.

Minor typesetting errors appeared on pages 57789 and 57800. On page 57789, the central tendency risks for CSO sediment/solids should have been expressed as 3×10^{-6}, not 3×10^{-9}. On page 57800, the final RQ in Pounds(Kg) for the entry K172 is corrected to read 100(45.4) not ''B100(45.4).''

Dated: January 29, 1996.

Timothy Fields, Jr.,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

Accordingly, the publication on November 20, 1995 of proposed regulations, which were the subject of FR Doc. 95–27693, is corrected as follows:

PART 268—LAND DISPOSAL RESTRICTIONS [CORRECTED]

§ 268.40 [Corrected]

1. On page 57797 in § 268.40 the Table of Treatment Standards, the proposed wastewater concentration for

the constituent dibenz(a,h)anthracene in waste code K170 is corrected to read 0.055 mg/L.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS [CORRECTED]

§ 271.1 [Corrected]

2. On page 57799 in § 271.1(j) Table 2 column one effective date, the effective date of each entry is corrected to read [Insert date 6 months from the date of publication of final rule].

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION [CORRECTED]

3. On page 57800 in Table 302.4, the final RQ in Pounds(Kg) for the entry K172 is corrected to read 100(45.4).

[FR Doc. 96–2720 Filed 2–7–96; 8:45 am]
BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

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

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

February 2, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, DC 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Forest Service

Title: Grazing Permit Administration Forms

Summary: Data collected is used in the administration of livestock grazing on the National Forest System. Both National and Regional level forms are included in this request. They are required for the issuance and administration of grazing permits on the NFS, as authorized by the Federal Land Policy and Management Act, as amended, and subsequent Secretary of Agriculture Regulation 5 U.S.C. 301, 36 CFP 222, subparts A & C.

Need and Use of the Information: The data obtained is used by Forest Officers in administering the range program. The data is necessary for the issuance of different types of grazing permits and the collection of fees due to the Federal Government.

Description of Respondents: Business or other for-profit; Farms

Number of Respondents: 4,950

Frequency of Responses: Reporting—on occasion

Total Burden Hours: 1,455

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 96–2670 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–01–M

Natural Resources Conservation Service

Monastery Run Project Area, Westmoreland County, PA

AGENCY: USDA—Natural Resources Conservation Service.

ACTION: ''Notice of a Finding of No Significant Impact''.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR, Part 1500); and the Natural Resources Conservation Service (formerly the Soil Conservation Service) Guidelines (7 CFR, Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Monastery Run Project Area, Westmoreland County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Ms. Janet L. Oertly, State Conservationist, Natural Resource Conservation Service, One Credit Union Place, Suite 340, Harrisburg, Pennsylvania 17110–2993, telephone (717) 782–2202.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Janet L. Oertly, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for water quality improvement. The planned works of improvement involve six treatment sites that are the source of ground and surface water pollution. Treatment of these sites will involve the installation of waterways, diversions, and treatment wetlands. Deep mine subsidence will be treated.

The ''Notice of a Finding of No Significant Impact'' (FONSI) has been forwarded to the Environmental Protection Agency. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The environmental assessment and basic data may be reviewed by contacting Janet L. Oertly.

No administrative action on implementation of the proposal will be taken until thirty (30) days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Janet L. Oertly,

State Conservationist.

[FR Doc. 96–2651 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–16–M

Rural Utilities Service

LaGrange County, Indiana Sewer District; Draft Programmatic Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Availability of Draft Programmatic Environmental Impact Statement and Notice of Public Meeting.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing a draft Programmatic Environmental Impact Statement (PEIS) related to the LaGrange County, Indiana Sewer District's proposal to construct sanitary wastewater collection and treatment facilities for residential population centers. The draft PEIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508) and Farmers Home Administration's procedure (7 CFR 1940, subpart G, Environmental Program). RUS invites comments on analyses performed by and addressed in the DPEIS.

The purpose of this draft PEIS is to evaluate the environmental impacts of proposed alternative strategies to provide treatment of sanitary wastewaters for residential population centers in LaGrange County. Discussion of each alternative's impact on the human environment, including risks to public health and safety, and effects on the natural environment is presented. The proposed action is necessary in order to respond to increased public health concerns and the continuation of surface and ground water degradation caused by inadequately treated wastewater effluent. This draft PEIS provides a planning tool to County officials and citizens to help select the most appropriate design and implementation strategy to address LaGrange County's wastewater problems.

ADDRESSES/FOR FURTHER INFORMATION CONTACT: For more information contact or for transmittal of written comments send to: Paul Neumann, State Environmental Coordinator, USDA—RECD, RUS, 5975 Lakeside Blvd., Indianapolis, IN 46278, (219) 290–3109, and FAX (219) 290–3127. Copies of the DPEIS will be available for public inspection, during normal business hours at the following locations:

LaGrange Town Clerk, 107 S. High Street, LaGrange, IN 46761

Town of Topeka, ATTN: Duane Bontrager, 101 Main Street, Topeka, IN 46571

Town of Shipshewana, ATTN: Ruth Ann Downey, P.O. Box 486, 345 N. Morton Street, Shiphewana, IN 46565

Town of Wolcottville, ATTN: Elizabeth Hodge, P.O. Box 325, 101 W. Race Street, Wolcottville, IN 46795

The draft PEIS will be distributed to various Federal, State, and local agencies, and elected officials. A limited number of copies of the narrative will be available for distribution at the LaGrange Town Clerk Office.

SUPPLEMENTARY INFORMATION: LaGrange County is a rural county of 30,000 residents located on the Michigan/Indiana border in northeastern Indiana. The largest town in the county is LaGrange, with a population of 4,000 residents. Most of the remaining citizens live in eight other small towns or in residential developments surrounding many of the County's numerous natural lakes. Eighty percent of LaGrange County's land is currently used for agriculture. The remaining twenty percent is either in use as residential or commercial development or is unsuitable for agricultural production.

The citizens of LaGrange County have had for decades a mounting problem being able to achieve effective treatment of their sanitary wastewaters. The primary method of treating wastewater has been on-site waste disposal systems. These systems are a cost effective and efficient treatment method for treating wastewater provided they are designed and installed properly and operate under suitable soil conditions. However, LaGrange County and indeed, many parts of northern Indiana, do not have the types of soils that are suitable for these systems and, as a consequence, significant degradation of the County's surface and ground water has occurred in the County from the disposal of improperly treated wastewater effluent. Documented cases of water quality degradation and transmittal of water-borne pathogens have been recorded by State and County health officials. The significance of potential public health concerns have prompted County officials to initiate a resolution of this historic public health dilemma.

Citizens, in an effort to maintain safe and dependable water supplies and to arrest the downward spiral of water quality degradation, have requested their elected officials to provide a dependable means of treating sanitary wastewaters. In response, elected officials and community leaders created the LaGrange County Sewer District and appointed a Sewer Board to govern it. The Sewer Board has been empowered to make planning decisions and negotiate agreements that will ultimately provide a more effective treatment of sanitary wastewaters for County residents. The Sewer Board has taken actions to organize and prioritize the County's sanitation needs by commissioning engineering studies, holding monthly public meetings and interacting with state regulatory agencies. After exploring several options to finance the construction of the proposed system, the Sewer Board formally submitted a request for financial assistance to the United States Department of Agriculture, Rural Utilities Service (RUS). The RUS, Water and Waste Program provides financial assistance through loan and grant programs to rural communities for development of water and waste disposal systems and is considering this request as part of these programs.

As part of the preliminary engineering studies commissioned by the Sewer District, the County identified and prioritized 29 areas according to their need for capital improvements to existing wastewater treatment system. From this study the Sewer Board adopted a prioritization and planning strategy which divided the County into five regions; A through E. Each region was defined by a circle with a three mile diameter, the center of which was located so as to encompass the maximum number of areas identified as having a need for wastewater treatment systems. Potential service areas within each region were selected based on the severity of pollution, the number and density of potential connections, the potential for regionalization, potential for future development, and local support for the project. The following regions are the population centers that have been determined to have the greatest need for sanitary sewers: Region A—Oliver Lake, Dallas Lake, Atwood Lake, Witmer Lake, Messick Lake and Westler Lake; Region C—Towns of Howe and Ontario; North Twin Lake, South Twin Lake and Cedar Lake; Region D—Shipshewana Lake and Stone Lakes; Region E—Town of Mongo; Town of Emma and Emma Lake.

Once these populations centers were prioritized based on greatest need and those which pose the greatest threat to water quality, the Sewer Board explored technical and cost options to providing sewer service to this areas. After weighing all of the options and project alternatives, the County has selected what they feel is their preferred technical approach and have been seeking not only financing for their project, but regulatory concurrence from the Indiana Department of Environmental Management.

Upon receipt of LaGrange County's request for financial assistance and prior to funding the construction of their proposal and in compliance with the NEPA, RUS prepared an analysis of the potential environmental impacts of the County's proposal. Because of the comprehensive nature and magnitude of the project proposal, RUS has decided to prepare an Environmental Impact Statement (EIS) to analyze the proposal as a whole rather than segment the analysis for each individual region as identified by the Sewer Board. At this stage of the project no final decisions have been made as to project specifics—that is, wastewater collection and conveyance systems, treatment technologies, or discharge options of treated effluent. For this reason, RUS has decided to prepare a broadly scoped programmatic EIS (PEIS) where all the important environmental resources have been identified in the defined ''service areas'' for the each region. Analyses of the direct, indirect and cumulative impacts have been performed for all identified resources in each region and are based on the project alternatives RUS has decided to evaluate. The results of these analyses are presented

in the appropriate section of the draft PEIS.

The preferred alternative is a decentralized wastewater collection and treatment system for population centers using an engineered wetlands treatment process. This alternative involves the use of pressure or gravity collection systems to convey wastewater to multiple engineered wetland treatment facilities. Collection and conveyance technologies considered for this option will be the same as those analyzed for the centralized treatment facility option. Treatment alternatives for the engineered wetland treatment process option will include land application (spray irrigation) of treated effluent followed by surface water discharges into a receiving stream or discharge into subsurface absorption basins.

Other project alternatives were identified in feasibility studies conducted for LaGrange County Sewer District. These alternatives, although viable, were not chosen as the preferred alternative. The alternatives are: (1) No Action Alternative. This alternative continues the use of on-site water disposal systems. This option would not address the present public health concerns or the continued degradation of the County's surface and ground water. (2) Centralized Wastewater Collection and Treatment for all County Residents Using Conventional Wastewater Treatment. This option would use either pressure or gravity collection systems to convey wastewater to a centralized treatment facility. Collection and conveyance alternatives analyzed for this option include: small diameter gravity systems; small diameter pressure systems using single connection effluent grinder pumps; and conventional gravity collector lines connected to pressure lines. Activated sludge process alternatives considered for this option included: Oxidation ditches and extended aeration. This option, by far, has the highest unit cost. (3) Centralized Wastewater Collection and Treatment for All County Residents Except for Residents in Remote Locations Using Conventional Activated Sludge Waste Treatment Processes. This alternative involves providing sewage collection and treatment services for all LaGrange County residents except those located in isolated regions. This option would use the same collection and treatment technologies as the option providing wastewater treatment for all of LaGrange County. Cost savings over serving the entire county would be realized because of the high unit cost of serving remote residences.

Public Meeting

A public meeting to solicit review comments will be held on February 23, 1996 at the LaGrange County Office Building, 114 West Michigan Street, LaGrange, IN 46761 at 7:30 pm. The meeting will be conducted by the RUS and the LaGrange County Sewer Board. All Federal and State agencies and other interested parties are invited to participate in the meeting and to offer comments on the DPEIS. Oral statements will be heard and transcribed by a stenographer; however, to ensure accuracy of the record all statements should be submitted in writing. All statements, both oral and in writing, will become part of the public record on this study. All written comments must be postmarked by no later than April 8, 1996 to become part of the public record.

Dated: February 1, 1996.

Wally Beyer,

Administrator.

[FR Doc. 96–2671 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1996 Race & Ethnic Targeted Test.

Form Number(s): DL–1A, DL–1B, DL–1C, DL–1D, DL–1E, DL–1F, DL–1G, DL–1H and Spanish versions.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 33,893 hours.

Number of Respondents: 118,000.

Avg Hours Per Response: 12½ minutes.

Needs and Uses: The 1996 Race and Ethnic Targeted Test and its associated content reinterview are the principal vehicles for evaluating fundamental changes to the race and ethnic questions for the upcoming 2000 Census of Population and Housing. This test is also crucial for the review of Statistical Policy Directive No. 15 by the Office of Management and Budget (OMB) and by the Federal Interagency Committee for the Review of Racial and Ethnic Standards. The test encompasses eight different self–enumeration questionnaires mailed to eight panels of respondents nationwide. Each of the versions is designed to assess one or more changes to the race and ethnic questions proposed by OMB, the Census Bureau Advisory Committees, and other data users and through evaluation of 1990 census data. Spanish versions will also be mailed in areas with high concentration of Spanish-speaking households. A content reinterview will be conducted with a subsample of respondents to assess the accuracy and reliability of the race and ethnic information collected.

Affected Public: Individuals.

Frequency: One–time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Margaret L. Woody, (202) 482–3630, Department of Commerce, Room 5310, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Maria Gonzalez, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: February 2, 1996.

Margaret L. Woody,

Office of Management and Organization.

[FR Doc. 96–2690 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–07–F

Bureau of Export Administration

Action Affecting Export Privileges; Ronald J. Hoffman

Order Denying Permission To Apply For Or Use Export Licenses

In the Matter of: Ronald J. Hoffman, 523 Vallejo Street, San Francisco, California 94133.

On April 20, 1992, Ronald J. Hoffman (Hoffman) was convicted in the United States District Court for the Central District of California of violating Section 38 of the Arms Export Control Act (22 U.S.C.A. § 2778 (1990 & Supp. 1995)) (the AECA), among other crimes. Specifically, Hoffman was convicted of exporting items controlled on the U.S. Munitions list, including technical data directly related to the Strategic Defense Initiative and other missile technology, to Japan, Germany, and South Africa without obtaining the required export license or written approval from the U.S. Department of State and of failing to register as a defense exporter with the

U.S. Department of State, Office of Defense Trade Controls.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1995)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the AECA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768–799 (1995)) (the Regulations) for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the AECA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any export license previously issued to such a person.

Having received notice of Hoffman's conviction for violating the AECA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Hoffman permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on April 20, 2002. I have also decided to revoke all export licenses issued pursuant to the Act in which Hoffman had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. All outstanding individual validated licenses in which Hoffman appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Exporter Services for cancellation. Further, all of Hoffman's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until April 20, 2002, Ronald J. Hoffman, 523 Vallejo Street, San Francisco, California 94133, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) as a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in section 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Hoffman by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until April 20, 2002.

VI. A copy of this Order shall be delivered to Hoffman. This Order shall be published in the Federal Register.

Dated: January 26, 1996.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 96–2652 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Act expired on August 20, 1994. Executive Order 12924 (59 *Fed. Reg.* 43437, August 23, 1994), extended by Presidential Notice of August 15, 1995 (60 *Fed. Reg.* 42767, August 17, 1995), continued the Regulations in effect under the International Emergency Economic Powers Act, 50 U.S.C.A. §§ 1701–1706 (1991).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act. Because of a recent Bureau of Export Administration reorganization, this responsibility now rests with the Director, Office of Exporter Services. Subsequent regulatory references herein to the ''Director, Office of Export Licensing,'' should be read as meaning ''Director, Office of Exporter Services.''

International Trade Administration

[A–428–801]

Ball Bearings (Other Than Tapered Roller Bearings) and Parts Thereof, From Germany; Preliminary Results of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of New Shipper Antidumping Duty Administrative Review.

SUMMARY: In response to a request by Roulements Miniatures SA (RMB), Biel, Switzerland, and its wholly owned subsidiary Miniaturkugellager GmbH (MKL), Germany, the Department of Commerce (the Department) is conducting a new shipper administrative review of the antidumping duty order on ball bearings (other than tapered roller bearings) and parts thereof (ball bearings) from Germany. This review covers MKL, a German manufacturer of ball bearings and exporter of this merchandise to the United States. The period of review (POR) is December 1, 1994 through May 31, 1995. We have preliminarily

determined that MKL sold subject merchandise at not less than normal value (NV) during the POR. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995, (60 FR 25130).

Background

On May 31, 1995, the Department received a request from RMB and MKL for a new shipper review pursuant to section 751(a)(2)(B) of the Act and section 353.22(h) of the Department's interim regulations.

Section 751(a)(2) of the Tariff Act and section 353.22(h) of the Department's regulations govern determinations of antidumping duties for new shippers. These provisions state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period of investigation (POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer. To establish these facts, the exporter or producer must include with its request, with appropriate certifications: (i) the date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States; (ii) a list of the firms with which it is affiliated; and (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the POI.

MKL's request was accompanied by information and certifications establishing the date on which MKL first shipped and entered subject merchandise, the names of MKL's affiliated parties, and statements from MKL and its affiliated parties that they did not, under any name, export the merchandise during the POI. Based on the above information, on June 14, 1995, the Department initiated this new shipper review of MKL (60 FR 32503). The Department is now conducting this review in accordance with section 751 of the Tariff Act and section 353.22 of its regulations.

Scope of the Review

Imports covered by this review are shipments of ball bearings and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.10, 8482.99.35, 8482.99.6590, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. For a further discussion of the scope of the order being reviewed, including recent scope determinations, *see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900 (February 28, 1995). The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

The review covers one producer/exporter. The POR is December 1, 1994 through May 31, 1995.

Constructed Export Price (CEP)

The Department based its margin calculation on constructed export price (CEP) as defined in section 772(b) of the Tariff Act because the subject merchandise was first sold in the United States to a person not affiliated with MKL after importation, by RMB Ringwood Inc. (Ringwood), a seller affiliated with MKL.

We based CEP on packed, ex-factory prices to unaffiliated purchasers in the United States. The Department made the following adjustments to the prices used to establish CEP, pursuant to section 772(c) of the Tariff Act. The price was increased for packing and handling revenues pursuant to section 772(c)(1) and reduced for movement expenses (international freight, brokerage, U.S. duties, domestic inland freight and insurance) pursuant to section 772(c)(2). The price used to establish CEP was also reduced by an amount for the following expenses incurred in selling the subject merchandise in the United States pursuant to section 772(d)(1): commissions, credit, and inventory carrying costs and other indirect selling expenses incurred in the United States. Pursuant to section 772(d)(3), the price was further reduced by an amount for profit to arrive at the CEP.

Normal Value (NV)

Based on a comparison of the aggregate quantity of home market and U.S. sales, and absent any information that a particular market situation in the exporting country does not permit a proper comparison, we determined that the quantity of foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1)(C) of the Tariff Act. Therefore, in accordance with section 773(a)(1)(B) of the Tariff Act, we based NV on the price at which the foreign like product was first sold for consumption in the exporting country.

Pursuant to section 777A(d)(2), we compared the CEPs of individual transactions to the monthly weighted-average price of sales of the foreign like product. We compared CEP sales to sales in the home market of identical merchandise.

We based NV on packed, ex-factory prices to unaffiliated purchasers in the home market. We made adjustments,

where applicable, in accordance with section 773(a)(6) of the Tariff Act. In order to adjust for differences in packing between the two markets, we increased home market price by U.S. packing costs and reduced it by home market packing costs. Prices were reported net of value added taxes (VAT) and, therefore, no deduction for VAT was necessary. Where applicable, we made adjustments to home market price for early payment discounts. To adjust for differences in circumstances of sale between the home market and the United States, we reduced home market price by an amount for home market credit and royalty expenses and increased it by an amount for royalties on U.S. sales paid by MKL. No other adjustments were made.

Preliminary Results of the Review

As a result of our comparison of CEP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/Exporter	Period	Margin
MKL	12/01/94–5/31/95	0.00

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 34 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 20 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 27 days after the date of publication. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of the new shipper administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing, within 90 days of issuance of these preliminary results.

Upon completion of this new shipper review, the Department will issue appraisement instructions directly to the Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, upon completion of this review, the posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Tariff Act and section 353.22(h)(4) of the Department's regulations, will no longer be permitted and, should the final results yield a margin of dumping, a cash deposit will be required for each entry of the merchandise. The following deposit requirements will be effective upon publication of the final results of this new shipper antidumping duty administrative review for all shipments of ball bearings from Germany, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be that established in the final results of this new shipper administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 68.89 percent, the ''All Others'' rate made effective by the final results of review published on July 26, 1993 (*see Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993)). This rate is the ''All Others'' rate from the LTFV investigation.

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Tariff Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2692 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–812]

Final Court Decision and Partial Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–3464.

SUMMARY: On October 27, 1995, in the case of Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–175 (Micron), the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department's) results of redetermination on remand of the Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea. However, Micron Technologies (the petitioner in that case) has appealed certain aspects of that redetermination on remand to the United States Court of Appeals for the Federal Circuit (Federal Circuit). These appeals have affected two of the three respondents, Hyundai Electronics Industries Co., Ltd. and Hyundai Electronics America (collectively Hyundai), and LG Semicon Co., Ltd. and LG Semicon America, Inc. (collectively Semicon and formally Goldstar). The results of the redetermination on remand for Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc. (collectively Samsung) were not challenged by any party. Therefore, there is now a final and conclusive court decision in this action for Samsung. Thus, we are amending our final determination in this matter and will instruct the U.S. Customs Service to discontinue suspending liquidation of merchandise manufactured and exported by Samsung. If necessary, an amendment to the final determination will be made for the other two respondents once there is

a final decision on the petitioner's appeals by the Federal Circuit.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1993, the Department published its *Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (57 FR 15467). On May 10, 1993, the Department published its *Antidumping Order and Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (58 FR 27520).

Subsequent to the Department's final determination, the petitioner and the three respondents filed lawsuits with the Court challenging this determination. Thereafter, the Court issued an Order and Opinion dated June 12, 1995, in Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–107, remanding six issues to the Department. The Court instructed the Department to: (1) Recalculate respondents' cost of production by allocating research and development (R&D) costs on a product-specific basis; (2) use amortized rather than current R&D expenses in its calculations; (3) reopen the record in order to afford Hyundai and Samsung an opportunity to present complete and actual fixed asset data and use this data to allocate interest expenses; (4) recalculate Hyundai's lag period; (5) recalculate Semicon's production costs without reclassifying Semicon's capitalized costs of facility construction and testing as costs of production; and (6) reexamine its conclusion that foreign currency translation losses of Samsung and Semicon are related to production of subject merchandise.

The Department filed its remand results on August 24, 1995. In the remand results, the Department: (1) Recalculated respondents' cost of production by allocating R&D on a product-specific basis; (2) used amortized rather than current R&D expenses in its calculations; (3) reopened the record to afford Hyundai and Samsung an opportunity to introduce actual data regarding semiconductor fixed assets, and used such data in its allocation of interest expense; (4) recalculated Hyundai's lag periods utilizing the same methodology that it employed for Samsung and Semicon; (5) determined a new lag period for Hyundai's model HY514400 which accurately matches costs to the sales in question; (6) calculated Semicon's production costs for certain DRAMs without reclassifying as costs of production Semicon's capitalized costs of facility construction and testing; and (7) identified what evidence on the record supports the conclusion that the translation losses of Samsung and Semicon are related to production of the subject merchandise and, having determined that there is sufficient evidence on the record to support such a conclusion, included translation losses in the calculation of COP for Samsung and Semicon.

On October 27, 1995, the Court sustained the Department's remand results. *See* Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–175 (CIT October 27, 1995).

On December 6, 1995, the Department published a notice of court decision pursuant to 19 U.S.C. 1516a(e). *Court Decision and Suspension of Liquidation: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (60 FR 62385). In that notice, we stated that we would suspend liquidation until there was a ''conclusive'' decision in the action. Since publication of that notice, the petitioner has appealed certain aspects of that redetermination on remand to the Federal Circuit. These appeals have affected two of the three respondents, Hyundai and Semicon. The results of the redetermination on remand for Samsung were not challenged by any party. Therefore, there is now a final and conclusive court decision in this action for Samsung. Thus, we are amending our final determination in this matter and will instruct the U.S. Customs Service to discontinue suspending liquidation of merchandise manufactured and exported by Samsung. If necessary, an amendment to the final determination will be made for the other two respondents once there is a final decision on the petitioner's appeals by the Federal Circuit.

Partial Amendment to Final Determination

Pursuant to 19 U.S.C. 1516a(e), we are now amending the final determination in dynamic random access memory semiconductors of one megabit and above from Korea for Samsung only.

The recalculated margin is as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Samsung Electronics Co., Ltd.	0.22 (*de minimis*).

Partial Discontinuation of Suspension of Liquidation

Since the amended margin for Samsung is now *de minimis*, we are directing the Customs Service to discontinue suspending liquidation of all entries of Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea manufactured and exported by Samsung that are entered, or withdrawn from warehouse, for consumption on or after October 29, 1992, the date of publication of the original preliminary determination in the Federal Register. Furthermore, we are directing the Customs Service to refund all cash deposits or postings of a bond which have been collected on the subject merchandise manufactured and exported by Samsung. Suspension of liquidation will remain in effect for Hyundai and Semicon.

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2693 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–508–604]

Industrial Phosphoric Acid From Israel; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: On September 15, 1995, the Department of Commerce initiated an administrative review of the antidumping duty order on industrial phosphoric acid from Israel. The review covers one exporter, Haifa Chemicals, Ltd. (Haifa), and the period August 1, 1994 through July 31, 1995. Since there were no shipments of the subject merchandise during the period of review, we preliminarily determine that the dumping margin for Haifa is 6.82 percent, the rate Haifa received in its most recent review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Amy S. Wei or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution

Avenue NW., Washington, DC 20230; telephone (202) 482–5253.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On September 15, 1995, the Department of Commerce (the Department) published the initiation of its administrative review of the antidumping duty order on industrial phosphoric acid from Israel (60 FR 47930). The Department is now conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by the review are shipments of industrial phosphoric acid, classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). HTS item numbers are provided for convenience and for Customs purposes. The written description remains dispositive.

Preliminary Results of Review

On September 21, 1995, a questionnaire was sent to Haifa. On October 18, 1995, Haifa responded that there were no shipments of covered merchandise by Haifa during the period August 1, 1994 through July 31, 1995. The Department verified this information with the U.S. Customs Service. Therefore, we have preliminarily assigned Haifa the rate applicable to it from its most recent administrative review. This rate is 6.82 percent. See *Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Administrative Reviews*, 59 FR 32184, June 22, 1994.

Furthermore, the following deposit requirement will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for Haifa will be Haifa's rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in any review or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 1.77 percent, the ''all others'' rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2691 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–099. *Applicant:* National Institute of Standards and Technology, Gaithersburg, MD 20899. *Instrument:* Rotating Sample for Ion Microscope. *Manufacturer:* Kore Technology, United Kingdom. *Intended Use:* See notice at 60 FR 57222, November 14, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant. The National Institutes of Health advises in its memorandum dated December 4, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–2694 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–116. *Applicant:* Tulane University Hospital and Clinic, 1415 Tulane Avenue - SA 5, New Orleans, LA 70112. *Instrument:* Electron Microscope, Model H7100. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* The instrument will be used for analysis of tissues from each organ of the vertebrate body, monolayers of cultured cells, pellets of cultured cells, and filters with ingrown cells. These materials are examined for changes in cellular morphology, osmotic shocks, effects of drugs, and/or normal development changes. In addition, the instrument will be used for the training of pathology residents, graduate students of the Molecular and Cellular Biology Program, faculty, and post-sophomore fellows and other fellows. *Application Accepted by Commissioner of Customs:* November 30, 1995.

Docket Number: 95–117. *Applicant:* Indiana University, PO Box 4040, Bloomington, IN 47402. *Instrument:* Noninvasive Blood Pressure Measurement Monitor. *Manufacturer:* TNO Biomedical Instrumentation, The Netherlands. *Intended Use:* The instrument will be used to perform research studies into the central inhibitory mechanisms controlling male sexual response through investigation of nocturnal penile tumescence during REM sleep. In addition the article will be used for following research programs:
(1) Neurochemical Mechanisms of Psychoactive Drugs,
(2) Heart rate as a Measure of Conditioning,
(3) Biophysics of Birdsong,
(4) Psychophysiology of Male Sexual Response,
(5) Cardiovascular Aspects of Sleep Apnea, and
(6) Autonomic Function and Alcohol Problems.

Application Accepted by Commissioner of Customs: December 6, 1995.

Docket Number: 95–118. *Applicant:* The Colorado College, Department of Biology, 14 E. Cache La Poudre, Colorado Springs, CO 80903. *Instrument:* Electron Microscope, Model CM 100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used as a research tool for studies of the following:
(1) plant cell and organelle ultrastructure comparing wild type and mutant strains of maize,
(2) diatom frustule ultrastructure utilizing thin metal replicas, and
(3) ultrastructure of male and female reproductive systems of parasitic flatworms.

In addition, the instrument will be for educational purposes in several courses. *Application Accepted by Commissioner of Customs:* December 7, 1995.

Docket Number: 95–119. *Applicant:* California State University, Los Angeles, 5151 State University Drive, Los Angeles, CA 90032. *Instrument:* Electron Microscope, Model JEM-1200EX II. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for biological studies of avian pigment cells, rat nervous tissue, rat testis, drosophila eye tissue, virus, bacteria, kidney tissue, reptile tissue, nervous ending in fish muscle cells in culture, and plant tissues in order to understand the microanatomy of these tissues. The instrument will also be used for educational purposes in the course Biology 402, Electron Microscopy. *Application Accepted by Commissioner of Customs:* December 8, 1995.

Docket Number: 95–120. *Applicant:* Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. *Instrument:* Stopped-Flow Spectrophotometer, Model SX.17MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the pre-steady state kinetic processes occurring in enzyme catalyzed reactions. *Application Accepted by Commissioner of Customs:* December 11, 1995.

Frank W. Creel
Director, Statutory Import Programs Staff
[FR Doc. 96–2695 Filed 2–7–96; 8:45 am]
BILLING CODE 3510–DS–F

University of Wyoming, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–089. *Applicant:* University of Wyoming, Laramie, WY 82071. *Instrument:* Spectrometer Package including Palmtop Computer and Infrared Mineral Identification System. *Manufacturer:* Integrated Spectronics Pty Ltd., Australia. *Intended Use:* See notice at 60 FR 54337, October 23, 1995. *Reasons:* The foreign instrument provides a digital library of reference signatures that permit rapid identification and/or possible matches with a target material. *Advice Received From:* National Institutes of Health, November 30, 1995.

Docket Number: 95–090. *Applicant:* Department of Health & Human Service, Food and Drug Administration, Washington, DC 20204. *Instrument:* ICP Mass Spectrometer, Model Plasma Trace 2. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 60 FR 54337, October 23, 1995. *Reasons:* The foreign instrument provides: (1) high resolution, continuously variable to 10 000 at a sensitivity of 40MHz, (2) 2% transmission at maximum resolution, and (3) resolution of interfering polyatomic species. *Advice Received From:* National Institutes of Health, December 1, 1995.

Docket Number: 95–095. *Applicant:* Norfolk State University, Norfolk, VA 23504. *Instrument:* Electron Paramagnetic Resonance Spectrometer System, Model EMX 10/2.7. *Manufacturer:* Bruker, Germany. *Intended Use:* See notice at 60 FR 57221, November 14, 1995. *Reasons:* The foreign instrument provides a dual mode cavity with B1 parallel to B0 and B1 perpendicular to B0, in the same cavity, by switching frequencies for measuring half field transitions in transition metal ion samples. *Advice Received From:* National Institutes of Health, December 4, 1995.

Docket Number: 95–096. *Applicant:* Arizona State University, Tempe, AZ 85287-1601. *Instrument:* Fluorescence Measuring System, Model PAM 101. *Manufacturer:* Heinz Walz GmbH, Germany. *Intended Use:* See notice at 60 FR 57222, November 14, 1995. *Reasons:* The foreign instrument provides: (1) measurement of sample fluorescence following μs pulsed illumination, (2) fluorescence measurements independent of actinic illumination and (3) time resolution to 20 μs. *Advice Received From:* National Institutes of Health, December 4, 1995.

Docket Number: 95–098. *Applicant:* Research Foundation of SUNY at Albany, NY 12222. *Instrument:* Formaldehyde Monitor. *Manufacturer:* Aero Laser GmbH, Germany. *Intended Use:* See notice at 60 FR 57222, November 14, 1995. *Reasons:* The foreign instrument provides: (1) a detection limit of <100 ppt (gas phase), (2) a noise level of <2.0% at full scale and (3) minimal interferences from other trace gases. *Advice Received From:* National Institutes of Health, December 4, 1995.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel
Director, Statutory Import Programs Staff
[FR Doc. 96–2696 Filed 2–7–96; 8:45 am]
BILLING CODE 3510–DS–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0062]

Clearance Request Entitled Material and Workmanship

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0062).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Material and Workmanship. A request for public comments was published at 60 FR 57252, November 14, 1995. No comments were received.

DATES: *Comment due date:* March 11, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets NW., room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0062, Material and Workmanship, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA, (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under Federal contracts requiring that equipment (e.g., pumps, fans, generators, chillers, etc.) be installed in a project, the Government must determine that the equipment meets the contract requirements. Therefore, the contractor must submit sufficient data on the particular equipment to allow the Government to analyze the item.

The Government uses the submitted data to determine whether or not the equipment meets the contract requirements in the categories of performance, construction, and durability. This data is placed in the contract file and used during the inspection of the equipment when it arrives on the project and when it is made operable.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.25* hours per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,160*; responses per respondent, *1.5*; total annual responses, *4,740*; preparation hours per response, *.25*; and total response burden hours, *1,185*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0062, Material and Workmanship, in all correspondence.

Dated: February 1, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–2739 Filed 2–7–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant Site; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas

DATE AND TIME: Tuesday, February 27, 1996: 2 p.m.—6 p.m.

ADDRESSES: Boatman's First National Bank, Centennial Room, 8th and Fillmore, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, PO. Box 30030, Amarillo, TX 79120 (806)477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee:

The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda:

2:00 pm
Welcome—Agenda Review—Approval of Minutes
2:10 pm
Co-Chairs' Comments
2:20 pm
Co-Chair Replacement Discussion
2:30 pm
Subcommittee Reports
—Community Outreach
—Budget and Finance
—Nominations
—Program and Training
—Policy and Personnel
3:15 pm Updates.
—Occurrence Reports—DOE
3:45 pm
Break.
4:15 pm
Discussion, Questionnaire Results
4:30 pm
Discussion, Site-wide Environmental Impact Statement (EIS) and Programmatic Environmental Impact Statement
—How to Reach the Public
5:15 pm
Task Force Reports
—Site-wide EIS
—Environmental Restoration
6:00 pm
Adjourn

Public Participation:

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes:

The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201

South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10 pm, Monday through Thursday; 7:45 am to 5 pm on Friday; 8:30 am to 12 noon on Saturday; and 2 pm to 6 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9 am to 7 pm on Monday; 9 am to 5 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on February 5, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2734 Filed 2–7–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES: Thursday, February 22, 1996: 6:30 p.m.–8:00 p.m.

ADDRESSES: The meeting will be held at: The Radisson Riverfront Hotel, Two Tenth Street, Augusta, Georgia.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–8074.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Thursday, February 22, 1996
6:30 p.m.
Discuss Board Business, e.g. facilitation support
8:00 p.m.
Adjourn

A final agenda will be available at the meeting Thursday, February 22, 1996.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling him at (803) 725–8074.

Issued at Washington, DC on February 5, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2733 Filed 2–7–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Nonproliferation and National Security; Fundamental Classification Policy Review

AGENCY: Office of Nonproliferation and National Security; Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) announces the availability for public comment of a draft report of the Fundamental Classification Policy Review. Since March 1995, the Fundamental Classification Policy Review Group has examined all areas of classified information falling under Department of Energy responsibility. By releasing the report for comment in draft now, the review panel will be able to give further consideration to stakeholder views before the final report is presented to the Secretary of Energy in April 1996.

DATES: Public comment is requested in writing not later than February 29, 1996.

ADDRESSES: The draft report will be made available for downloading from the Department of Energy Home Page (http://www.doe.gov) on the Internet. Comments and requests for hard copies of the draft report should be made to Dr. Glen R. Otey, Deputy Chair, Fundamental Classification Policy Review, Post Office Box 5800, Sandia National Laboratories, Mail Stop 0517, Albuquerque, New Mexico 87185–0517, phone number (505) 844–7006, facsimile number (505) 844–4543.

FOR FURTHER INFORMATION CONTACT: Dr. Glen R. Otey, Deputy Chair, Fundamental Classification Policy Review, Post Office Box 5800, Sandia National Laboratories, Mail Stop 0517, Albuquerque, New Mexico 87185–0517, phone number (505) 844–7006, facsimile number (505) 844–4543.

SUPPLEMENTARY INFORMATION: On March 16, 1995, the Secretary of Energy initiated a year-long review of the Department's classification policies. The review is being chaired by Dr. Albert Narath, formerly President of Sandia National Laboratories, and currently President of Lockheed Martin Corporation's Energy and Environment Sector. Since March 1995, the Review Group has examined all areas of classified information falling under the purview of the Department of Energy to identify which information continues to require protection so as to assure the common defense and security, with the objective of promptly declassifying and releasing all information no longer warranting protection. The Department believes it is critical that the Department of Energy's classification policies and practices, which, by definition, can and do limit access to the Department's activities, reflect the view of the citizens so affected. Throughout the review process, the public has been invited to provide comments and recommendations for consideration on any aspect of the Department's classification policies.

The Fundamental Classification Policy Review is scheduled for completion in April 1996. The report being made available will provide a snapshot of the work in progress. It is expected that research and coordination on some issues will continue through March. By releasing the report in draft now for public comment, the review panel will have another opportunity to give full consideration to stakeholder views before the final report is submitted to the Secretary of Energy in April 1996. The draft report may be revised during interagency review.

Specific declassification actions, once approved, will be publicly announced and implemented by revision of the Department's classification guides. It is anticipated that the implementation process will require approximately one year.

Hard copies of the draft report will be available from the Deputy Chair of the Fundamental Classification Policy Review. The draft report will also be available for downloading from the Department of Energy Home Page (http://www.doe.gov) on the Internet.

A. Bryan Siebert,

Director, Office of Declassification, Office of Security Affairs.

[FR Doc. 96–2735 Filed 2–7–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

Agency Information Collection Under Review by the Office of Management and Budget

February 2, 1996.

AGENCY: Federal Energy Regulatory Commission, DOT.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below.

DATES: Comments must be filed on or before March 11, 1996.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Commission Desk Officer, 726 Jackson Place NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Division of Information Services, Attention: Mr. Michael Miller, 888 First Street NE., Washington, DC 20426. Mr. Miller may be reached by telephone at (202) 208–1415 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–516, ''Electric Rate Schedule Filings.''

2. *Sponsor:* Federal Energy Regulatory Commission. The Federal Power Act requires each public utility to file for approval of rate schedules, together with related contracts and service conditions. The Commission is authorized to investigate the rates charged by public utilities to determine that the rates, terms and conditions of service are just and reasonable. If they are not, the Commission is authorized to determine and prescribe just and reasonable rates, terms and conditions.

3. *Control No.:* 1902–0096. The Commission is now requesting that OMB approve a three year extension of these mandatory collection requirements.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibility to assure that electric rates are just and reasonable. Sufficient detail must be obtained for the Commission to make informed decisions concerning the appropriate level of rates and to aide customers and other parties who may wish to challenge the rate proposed by the utility. The information enables the Commission and other parties to examine and evaluate the cost elements comprising the utility's cost of service to determine whether and how much of such cost elements should be included in the utility's rates.

5. *Respondent Description:* The respondent universe currently comprises approximately 328 public utilities, licensees, qualifying small power producers or members of public utility holding companies that are engaged in generation, transmission and sales of electric power.

6. *Estimated Burden:* 828,750 total burden hours (328 respondents, 975 responses annually, 850 average hours per response).

Statutory Authority: Sections 205, 206, 211, 212 and 301 of the Federal Power Act, 16 U.S.C. Sections 824d, 824e, 824j, 824k and 825 (1994).

Lois D. Cashell,

Secretary.

[FR Doc. 96–2716 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6633–003 California]

Humboldt State University; Availability of Environmental Assessment

February 2, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR part 380 (Order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed an exemption surrender application for the Davis Creek Hydroelectric Project, No. 6633–003. The Davis Creek Hydroelectric Project is located on Davis Creek in Humboldt County, California. The exemptee is applying for a surrender of the exemption because the project is not economically viable. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission's Reference and Information Center, Room 1C–1, 888 First Street NE., Washington, DC 20426.

Please submit any comments within 20 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please affix Project No. 6633–003 to all comments. For further information, please contact the project manager, Ms. Hillary Berlin, at (202) 219–0038.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2676 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–135–000]

Southern Natural Gas Co.; GSR Revised Tariff Sheets

February 2, 1996.

Take notice that on January 31, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of February 1, 1996:

Tariff Sheets Applicable to Contesting Parties

Sixth Revised Sheet No. 14
Twenty-eighth Revised Sheet No. 15
Sixth Revised Sheet No. 16
Twenty-eighth Revised Sheet No. 17
Eighteenth Revised Sheet No. 29
Eighteenth Revised Sheet No. 30
Eighteenth Revised Sheet No. 31

Southern submits the revised tariff sheets in order to reflect changes in its billing units and a credit to the GSR surcharge for February 1996.

Southern also tendered for filing the following tariff sheets with the proposed effective date of February 1, 1996:

Tariff Sheets Applicable to Contesting Parties

Seventeenth Revised Sheet No. 18

Tariff Sheets Applicable to Supporting Parties

First Revised Sheet No. 14a
Eighth Revised Sheet No. 15a
Seventh Revised Sheet No. 16a
Eight Revised Sheet No. 17a
Third Revised Sheet No. 18a

Tariff Sheet Applicable to Contesting and Supporting Parties

Fifth Revised Sheet No. 22
Second Revised Sheet No. 41a

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, as a result of the Commission's December 29, 1995 order issued in Docket No. RP–96–53 et al. requiring Southern to conform future filings with § 154.107 of the Commission's rules and regulations. Southern proposes that the tariff sheets be made effective February 1, 1996.

Southern also proposes to cancel the following tariff sheets, effective February 1, 1996:

Third Revised Sheet No. 23
Third Revised Sheet No. 24
Third Revised Sheet No. 25
First Revised Sheet No. 34a

Southern proposes to cancel the tariff sheets in order to reflect the removal from its Tariff of certain take-or-pay fixed charges which Southern has fully collected and to reflect the removal from its tariff of certain refund amounts which Southern has fully refunded to its customers.

Southern states that copies of the filing were served upon all affected transportation 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, 888 First Street NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's rules of practice and procedure. All such motions or protests must be filed as provided in § 154.210 of the Commission's Regulations. 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 Southern's filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 96–2680 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–134–000]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

February 2, 1996.

Take notice that on January 31, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective March 1, 1996:

Second Revised Sheet No. 140
Original Sheet No. 140a
First Revised Sheet No. 141
Original Sheet No. 141a

Southern states that the purpose of this filing is to change the monthly cash-out mechanism of its imbalance resolution procedures to provide that shippers who accrue monthly imbalances in the same direction as the net system imbalance for that month will cash out their imbalances based on a high or low price rather than on an index price. There will be no change in the cashout mechanism for shippers who accrue monthly imbalances in the opposite direction of the net system imbalance. Southern has requested that these sheets be made effective as of March 1, 1996.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20416, 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 and protests must be filed as provided in § 154.210 of the Commission's regulations. 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 pubic Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2679 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–122–004]

Trunkline LNG Co.; Annual Reconciliation Report

February 2, 1996.

Take notice that on January 31, 1996, Trunkline LNG Company (TLC) tendered for filing working papers reflecting its third annual reconciliation report.

TLC states that the information is submitted pursuant to Article VIII, section 4 of the Stipulation and Agreement in the above-captioned proceeding which requires TLC to submit, on an annual basis, a report of the cost and revenues which result from the operation of Rate Schedule PLNG–2 dated June 26, 1987, as amended December 1, 1989.

TLC states that copies of this filing have been served on all participants in the proceeding and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before February 9, 1996. 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. 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. 96–2678 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. RP91–54–012]

Trunkline Gas Co.; Annual Reconciliation Report

February 2, 1996.

Take notice that on January 31, 1996, Trunkline Gas Company (Trunkline) tendered for filing working papers reflecting its fourth annual take-or-pay volumetric surcharge reconciliation. Trunkline states that the information is submitted pursuant to Article II, section 8 of the Stipulation and Agreement in the above-captioned proceeding which requires Trunkline to submit, on an annual basis, a report of the take-or-pay

volumetric surcharge amounts collected from its customers.

Trunkline states that copies of this filing have been served on all participants in the proceeding and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before February 9, 1996. 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. 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. 96–2677 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5419–2]

Science Advisory Board, Research Strategies Advisory Committee; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Research Strategies Advisory Committee (RSAC) of the Science Advisory Board (SAB) will hold a public teleconference on February 23, 1996 from 11:00 am to 1:00 pm Eastern Time. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

During this teleconference, the RSAC will discuss the Agencys draft Strategic Plan for the Office of Research and Development. Issues to be discussed include: (a) Strengths of the Plan—What aspects or elements of the Plan does RSAC find to be particularly useful, important, and/or worthy of Agency attention and support?; (b) Strategic Message—The Plan lays out a set of Strategic Principles, a Mission Statement, a set of Goals and Objectives, and a Management Process designed to establish priorities and translate priorities into effective programs. Are these appropriate for ORD as they are defined in the Plan?; (c) Clarity—Is the Strategy, especially the process for setting priorities, clear?; (d) Criteria for Priorities—Are the criteria identified for setting priorities appropriate and useable? Would RSAC like to help refine them now or in the future?; (e) Utility of the Plan—Does the Plan offer a potentially useful roadmap for decision making and policy framework for managing ORD's research and development programs?

Single copies of the Agency's draft Strategic Plan are available from Ms. Lori Shuda, U.S. Environmental Protection Agency, Office of Research and Development (ORD), (Mail Code 8101), 401 M Street SW., Washington, DC 20460. Tel. (202) 260–4708. Any member of the public desiring to participate in the teleconference, desiring additional information about the meeting, or desiring to obtain copies of the agenda and other information about the conduct of the meeting, or to request time on the agenda for public comments, please contact Mr. A. Robert Flaak, Designated Federal Official, Science Advisory Board (1400F), US EPA, 401 M Street SW., Washington DC 20460, by telephone at (202) 260–5133 or FAX at (202) 260–7118, or via the INTERNET at: Flaak.Robert@EPAMAIL.EPA. GOV.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for teleconference call meetings, opportunities for oral comment will be limited to no more than three minutes per speaker and no more than fifteen minutes total. Written comments (at least 25 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting or teleconference), may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: February 1, 1996.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 96–2719 Filed 2–7–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Consolidated Reports of Condition and Income (Call Reports).

Form Number: Form FFIEC 0031, 032, 033, 034.

OMB Number: 3064–0052.

Expiration Date of OMB Clearance: March 31, 1996.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0052), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before March 11, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION:

Consolidated Reports of Condition and Income are filed quarterly with the three federal banking agencies (the FDIC, the Office of the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System) for their use in monitoring the condition and performance of banks and the industry as a whole. The reports are also used by the FDIC to calculate banks' deposit insurance assessments. On November 16, 1995, the three agencies jointly published a notice in the Federal Register (60 FR 57618) describing in detail and inviting comment on proposed changes to this collection of

information. All comments received by the agencies in response to that notice, including a change to the proposed revisions that the agencies made in response to those comments, are addressed in supporting statements to be submitted to OMB that were developed to justify the proposed changes. This notice provides the public with the opportunity to obtain, review, and comment on, the FDIC's supporting statement.

Dated: February 2, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–2644 Filed 2–7–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Clinton, Cortland, Essex, Greene, and Tioga Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2710 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include Public Assistance and Hazard Mitigation for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Chemung, Clinton, Delaware, Essex, Greene, Schoharie, Steuben, Sullivan, Tioga, and Ulster for Public Assistance and Hazard Mitigation (already designated for Individual Assistance);

Broome, Otsego, Saratoga, and Schenectady for Individual Assistance, Public Assistance, and Hazard Mitigation;

Columbia, Herkimer, and Warren for Public Assistance and Hazard Mitigation; and

Albany, Allegany, Cattaraugus, Cayuga, Chenango, Dutchess, Montgomery, Orange, Rensselaer, and Tompkins for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2711 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 23, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Tioga and Union Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2707 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Blair, Columbia, and Tioga Counties for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2708 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania,

(FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Adams, Cameron, Carbon, Lehigh, Montour, Northumberland, Pike, Sullivan, and Union Counties for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2709 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1096–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1096–DR), dated January 25, 1996, and related determinations.

EFFECTIVE DATE: January 25, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 25, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of West Virginia, resulting from flooding on January 19, 1996, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Warren Pugh of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of West Virginia to have been affected adversely by this declared major disaster:

Brooke, Grant, Greenbriar, Hancock, Hardy, Marshall, Monroe, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Summers, Tucker, Tyler, Webster, and Wetzel Counties for Individual Assistance, Public Assistance and Hazard Mitigation; and

Hampshire, Mason, and Wood Counties for Individual Assistance and Hazard Mitigation only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2706 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1096–DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1096–DR), dated January 25, 1996, and related determinations.

EFFECTIVE DATE: January 30, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 25, 1996:

Berkeley, Jefferson, Mercer, Mineral, Morgan, and Nicholas Counties for Individual Assistance, Public Assistance, and Hazard Mitigation; and

Hampshire County for Public Assistance (already designated for Individual Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2712 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of Final Fiscal Year 1996, Program Guidelines/Application Solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 1996 Program Guidelines/Application Solicitation for the Labor-Management Cooperation program to inform the public. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. No comments were received from the public. The guidelines are based on an assumption that this program will be funded at its anticipated level. Should there be a significant change in the program's final appropriation, a revised final version will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202–606–8181.

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY 1996

A. Introduction

The following is the final solicitation for the Fiscal Year (FY) 1996 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the

provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in FY81. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committee's to carry out specific objectives that meet the forementioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists either of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and mangers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 1996, competition will be open to plant, area, private industry, and public sector committees. Public Sector committees will be divided into two sub-categories for scoring purposes. Once sub-category will consist of committees representing state/local units of government and public institutions of higher education. The second sub-category will consist of public elementary and secondary schools.

Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.).

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee as a demonstration effort will accomplish during the life of the grant. Applications that offer to provide objectives *after* a grant is awarded will receive little or no credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in specific and measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal

funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 1996, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives.

An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestone and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exceptions apply to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

The FY 1996 appropriations for this program has not yet been approved. FMCS has been given a tentative allocation of approximately $1.25 million for this program. Although we expect this amount will not be changed significantly, FMCS reserves the right to amend this Solicitation should that occur. If that happens, the public will be notified by notice in the Federal Register. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be considered according to merit without regard to category. An additional $250,000 has been reserved for the listed continuation of FY94-funded grantees.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its appropriation to be awarded on a non-competitive basis. These funds will be used only to support industry-specific national-scope initiatives and/or regional industry models with high potential for widespread replication.

FMCS reserves the right to retain up to an additional five percent of the FY96 appropriation to contract for program support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence 12 months prior to the submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio. Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing inplant applicants;
—Up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committees applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants for existing committees must provide at least 25 percent of the total allowable project costs. All matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as ''in-kind'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for these purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* staff time as an expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FY96 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by *both* a labor and management representative and be postmarked no later than May 4, 1996. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street, NW., Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored initially by one or more Customer Review Boards. The Board(s) will recommend selected applications for further funding consideration. The Director, Labor-Management Program Services, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process.

All FY96 grant applicants will be notified of results and all grant awards will be made before September 30, 1996. Applications submitted after the May 4 deadline date or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Program Services.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits and additional information or clarification can be obtained free of charge by contacting Karen Pierce or Linda Stubbs, Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street NW., Washington, DC 20427; or by calling 202–606–8181.

John Calhoun Wells,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 96–2736 Filed 2–7–96; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL TRADE COMMISSION

[File No. 951 0091]

Illinois Tool Works Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: This Consent Agreement, accepted subject to final Commission approval, settles alleged violations of federal law prohibiting unfair or deceptive acts and practices and unfair methods of competition arising from the acquisition of all of the voting securities of Hobart Brothers Company by Illinois Tool Works Inc. The proposed complaint alleges that the merger, if consummated, would violate Section 7 of the Clayton Act, as amended, and Section 5 of the FTC Act, as amended, in the markets for industrial power sources and industrial engine drives—which, rated at 250 amperes and above, generate the power to operate arc welding systems—in the United States. Under the terms of the proposed order contained in the Consent Agreement, ITW will be required to divest all of the assets and businesses relating to the industrial power sources and industrial engine drives of Hobart Brothers

Company (''Hobart'') to Prestolite Electric Incorporated (''Prestolite''), pursuant to a January 17, 1996, Asset Purchase Agreement, as modified by a January 24, 1996, Undertaking (''Asset Purchase Agreement'') or, in the alternative, to an acquirer that meets the Commission's approval.

DATES: Comments must be received on or before April 8, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ann Malester, FTC/S–2035, Washington, D.C. 20580 (202) 326–2682; or Christina Perez, FTC/S–2214, Washington, D.C. 20580 (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 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 Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''Commission''), having initiated an investigation of the proposed acquisition by Illinois Tool Works Inc. (''ITW'') of Hobart Brothers Company (''Hobart''), and it now appearing that ITW, hereinafter sometimes referred to as ''Proposed Respondent,'' is willing to enter into an agreement containing an order to divest assets, and providing for certain other relief:

It is hereby agreed by and between Proposed Respondent ITW, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent ITW is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware with its office and principal place of business located at 3600 West Lake Avenue, Glenview, Illinois 60025–5811.

2. Proposed Respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed Respondent waives:

a. any further 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.

4. 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 of complaint contemplated thereby, will be placed on the public 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 Respondent, 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.

5. 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 of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This 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 Section 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 of complaint here attached and its decision containing the following order to divest in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order 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 Respondent's address as stated in the agreement shall constitute service. Proposed Respondent waives any right it 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.

7. Proposed Respondent has read the proposed complaint and order contemplated hereby. Proposed Respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed Respondent further understands it 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, as used in this order, the following definitions shall apply:

A. ''Respondent'' or ''ITW'' means Illinois Tool Works Inc., its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Illinois Tool Works Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

B. ''Hobart'' means Hobart Brothers Company, an Ohio corporation, with its principal office and place of business located at 600 West Main Street, Troy, Ohio 45373, its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Hobart Brothers Company, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

C. ''Commission'' means the Federal Trade Commission.

D. ''Acquisition'' means the acquisition by respondent of all of the issued and outstanding Hobart capital stock, by means of a statutory merger between Hobart and ITW Acquisition Corp., a Delaware corporation which is a wholly-owned subsidiary of ITW.

E. ''Industrial Power Sources'' means static arc welding power sources rated at 250 amperes or higher, including, but not limited to, any such power sources using inverter technology.

F. ''Industrial Engine Drives'' means rotating arc welding power sources rated at 250 amperes or higher.

G. ''Battery Chargers'' means devices used to charge industrial batteries.

H. ''Aircraft Ground Power Units'' means power conversion devices that provide power to aircraft that are on the ground.

I. ''Assets and Businesses'' means all assets, businesses and goodwill, tangible and intangible, including, without limitation, the following:

1. all machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

2. all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, management information systems, software, software licenses, inventions, copyrights, trademarks , trade names (excluding the Hobart trade name), trade secrets, intellectual property, patents, technology, know-how, specifications, designs, drawings, processes and quality control data;

3. the exclusive right to use the Hobart trade name in connection with the research, development, manufacture and sale of Industrial Power Sources and Industrial Engine Drives.

4. inventory;

5. rights, titles and interests in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

6. all rights under warranties and guarantees, express or implied;

7. all books, records, and files; and

8. all items of prepaid expense.

J. ''Hobart Industrial Welding Equipment Business'' means all of the Assets and Businesses used in the research, development, manufacture and sale by Hobart of:

1. Industrial Power Sources;

2. Industrial Engine Drives;

3. Battery Chargers; and

4. Aircraft Ground Power Units.

K. ''Hobart Power Conversion Operations'' means all of the Assets and Businesses used in the research, development, manufacture and sale by Hobart of:

1. Static arc welding power sources;

2. Rotating arc welding power sources;

3. Battery Chargers; and

4. Aircraft Ground Power Units.

L. ''Prestolite'' means Prestolite Electric Incorporated, a Delaware corporation, with its principal office and place of business located at 2100 Commonwealth Blvd., Ann Arbor, Michigan 48105.

M. ''Marketability, Viability and Competitiveness'' of the Hobart Industrial Welding Equipment assets means that the assets when used in conjunction with the assets of the acquirer are capable of operating a business which is substantially similar to the Hobart Industrial Welding Equipment Business at the time of the acquisition, with substantially similar sales levels and product lines.

II

It is further ordered that:

A. ITW shall divest, absolutely and in good faith, the Hobart Industrial Welding Equipment Business. The Hobart Industrial Welding Equipment Business shall be divested either:

1. Within one (1) month of the date this order becomes final, to Prestolite, pursuant to the January 17, 1996, Asset Purchase Agreement between Hobart and Prestolite as modified by the January 24, 1996, Undertaking, embodied in Confidential Appendix I [not attached]. If divested to Prestolite, the Hobart Industrial Welding Equipment Business shall exclude Aircraft Ground Power Units; or

2. Within twelve (12) months of the date this order becomes final, to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. In the event that the acquirer does not choose to acquire the Battery Charger or Ground Power Unit assets and businesses, because the acquirer does not need such assets in order to engage in the Industrial Power Source and Industrial Engine Drive Businesses, respondent shall not be required to divest such assets.

B. The purpose of the divestiture is to ensure the continuation of the Hobart Industrial Welding Equipment Business as an ongoing, viable operation, engaged in the research, development, manufacture and sale of Industrial Power Sources and Industrial Engine Drives, and to remedy the lessening of competition resulting from the proposed acquisition as alleged in the Commission's complaint.

C. Until the Hobart Industrial Welding Equipment Business has been divested, ITW shall:

1. Maintain the Marketability, Viability, and Competitiveness of the Hobart Industrial Welding Equipment Business, and shall not cause or permit the destruction, removal, wasting, deterioration, or impairment of any assets or business it may have to divest, except in the ordinary course of business and except for ordinary wear and tear, and it shall not sell, transfer, encumber or otherwise impair the Marketability, Viability or Competitiveness of the Hobart Industrial Welding Equipment Business; and

2. Expend funds for research and development, quality control, manufacturing and marketing of each of the Hobart Industrial Welding Equipment Business products at a level not lower than that budgeted for the 1995 fiscal year, and shall increase such spending as is deemed reasonably necessary in light of competitive conditions.

D. Upon reasonable notice from the acquirer to respondent, respondent shall provide, at no cost, such assistance to the acquirer as is reasonably necessary to enable the acquirer to design and manufacture Industrial Power Sources and Industrial Engine Drives in substantially the same manner and quality employed or achieved by Hobart prior to the Acquisition. Such assistance shall include reasonable consultation with knowledgeable employees of respondent and training at the acquirer's facility for a period of time sufficient to satisfy the acquirer's management that its personnel are appropriately trained in the design and manufacture of Industrial Power Sources and Industrial Engine Drives. Respondent shall convey all know-how necessary to design and manufacture Industrial Power Sources and Industrial Engine Drives in substantially the same manner and quality employed or achieved by Hobart prior to the Acquisition.

However, respondent shall not be required to continue providing such assistance for more than nine (9) months.

III

It is further ordered that:

A. If ITW has not divested, absolutely and in good faith and with the Commission's prior approval, the Hobart Industrial Welding Equipment Business within twelve (12) months of the date this order becomes final, the Commission may appoint a trustee to divest the Hobart Industrial Welding Equipment Business. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, ITW shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this paragraph III. shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by ITW to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to

paragraph III.A. of this order, ITW shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of ITW, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in mergers and divestitures. If ITW has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to ITW of the identity of any proposed trustee, ITW shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Hobart Industrial Welding Equipment Business.

3. Within ten (10) days after appointment of the trustee, ITW shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Hobart Industrial Welding Equipment Business, or to any other relevant information, as the trustee may request. ITW shall develop such financial or other information as the trustee may request and shall cooperate with the trustee. ITW shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by ITW shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to ITW's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer as set out in Paragraph II. of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by ITW from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of ITW, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of ITW, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of ITW, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Hobart Industrial Welding Equipment Business.

8. ITW shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee may also divest such additional ancillary assets and businesses of the Hobart Power Conversion Operations and effect such arrangements as are necessary to assure the Marketability, Viability and Competitiveness of the Hobart Industrial Welding Equipment Business.

12. The trustee shall have no obligation or authority to operate or maintain the Hobart Industrial Welding Equipment Business.

13. The trustee shall report in writing to ITW and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that consistent with ITW's obligation to maintain the Marketability, Viability and Competitiveness of the Hobart Industrial Welding Equipment Business, ITW may engage in any business other than the Hobart Industrial Welding Equipment Business, including without limitation, the welding equipment business it is currently operating through its wholly-owned subsidiary, Miller Electric Mfg. Co.

V

It is further ordered that within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until ITW has fully complied with Paragraphs II. and III. of this order, ITW shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II. and III. of this order. ITW shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II. and III. including a description of all substantive contacts or negotiations for the divestiture required by this order, including the identity of all parties contacted. ITW shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestiture.

VI

It is further ordered that ITW shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other

change in the corporation that may affect compliance obligations arising out of the order.

VII

It is further ordered that, for the purpose of determining or securing compliance with this order, ITW shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of ITW, relating to any matters contained in this order; and

B. Upon five (5) days notice to ITW, and without restraint or interference from ITW, to interview officers, directors, or employees of ITW, who may have counsel present, regarding any such matters.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a proposed Consent Order from Illinois Tool Works Inc. (''ITW''). The proposed Consent Order requires ITW to divest all of the assets and businesses relating to the industrial power sources and industrial engine drives of Hobart Brothers Company (''Hobart'') to Prestolite Electric Incorporated (''Prestolite''), pursuant to a January 17, 1996, Asset Purchase Agreement, as modified by a January 24, 1996, Undertaking (''Asset Purchase Agreement'') or, in the alternative, to an acquirer that meets the Commission's approval.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception 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 agreement or make final the agreement's proposed Order.

Pursuant to a letter of intent dated May 2, 1995, ITW proposed to acquire all of the voting securities of Hobart for approximately $225 million in ITW common stock. The proposed complaint alleges that the merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act as amended, 15 U.S.C. § 45, in the markets for industrial power sources and industrial engine drives in the United States.

Industrial power sources are stationary pieces of welding equipment, rated at 250 amperes and above, that generate the power needed to operate an arc welding system by connecting to an existing source of electricity, such as a wall outlet, and transforming that electricity into the precise current and voltage needed for welding. Industrial engine drives are portable power sources, rated at 250 amperes and above, that use gas or diesel fuel, instead of electricity, as a source of power. Industrial power sources and industrial engine drives are critical components of arc welding systems which are used in a broad range of industries, ranging from industrial fabrication to shipbuilding. There are no viable substitutes for either industrial power sources or industrial engine drives. Alternative welding processes and methods of joining metal are only used for specialized applications and could not be used in a cost effective manner for applications where industrial power sources or industrial engine drives are used.

ITW's acquisition of Hobart would reduce the number of significant industrial power source and industrial engine drive competitors in the United States from three to two. In the industrial power source market, the post-acquisition Herfindahl-Hirschman Index (''HHI'') would increase by 858 points to 4856. In the industrial engine drive market, the post-acquisition HHI would increase by 298 points to 4538.

New entry into the United States industrial power source and industrial engine drive markets is extremely time consuming, costly and difficult. In addition to designing and developing a line of products, a new entrant must establish the brand reputation and customer acceptance necessary to convince customers to purchase from a company other than the well-established competitors. It takes well in excess of two years to accomplish these steps and achieve a significant market impact.

Although foreign industrial power source and industrial engine drive manufacturers offer some products in the United States, these foreign manufacturers lack the necessary product designs and brand reputation and customer acceptance necessary to effectively compete in this country. As a result, these companies have had virtually no competitive impact on the United States markets.

ITW's acquisition of Hobart poses serious antitrust concerns. In the United States markets for industrial power sources and industrial engine drives, the acquisition would eliminate direct actual competition between ITW and Hobart, enhance the likelihood of coordinated interaction, increase the likelihood that quality and technological innovation would be reduced, and thereby increase the likelihood that consumers would be forced to pay higher prices.

Under the proposed Consent Order, ITW is required to divest the Hobart industrial power source and industrial engine drive assets and businesses to Prestolite within one month of the date the order becomes final pursuant to the Asset Purchase Agreement. Under the terms of the Asset Purchase Agreement, ITW is required to divest all of the assets and businesses used in the research, development, manufacture and sale by Hobart of industrial power sources and industrial engine drives, including an exclusive license of the Hobart trade name for five years. ITW has agreed not to market industrial power sources and industrial engine drives under the Hobart name for seven years and will provide Prestolite with the option to also acquire a non-exclusive license to use the Hobart name for retail, as opposed to industrial, power sources or engine drives, which are rated below 250 amperes. In addition, ITW will be required to provide personnel, assistance and training in order to transfer industrial power source and industrial engine drive technology and know-how to Prestolite.

If the transaction with Prestolite is not consummated within one month of the date the order becomes final, ITW is required to divest the Hobart industrial power source and industrial engine drive assets to an acquirer that receives the prior approval of the Commission and in a manner approved by the Commission within twelve months of the date the order becomes final. The acquirer, at its option, may also acquire the battery charger and aircraft ground power unit assets and businesses of Hobart, if such assets are necessary to engage in the industrial power source and industrial engine drive businesses. If ITW fails to divest the assets within twelve months, a trustee may be appointed to divest the assets, as well as additional ancillary assets included in Hobart's Power Conversion Business. The purpose of the divestiture is to ensure the continuation of the Hobart Industrial Welding Equipment Business as an ongoing, viable operation, engaged in the research, development, manufacture and sale of industrial power sources and industrial engine drives, and to remedy the lessening of competition resulting from the acquisition.

The Order also requires ITW to provide the Commission a report of compliance with the divestiture provisions of the Order within sixty (60) days following the date the Order becomes final, and every sixty (60) days thereafter until ITW has completed the required divestiture.

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

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–2705 Filed 2–7–96; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96F–0031]

Reichhold Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Reichhold Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,2-benzisothiazolin-3-one as a biocide in rubber latex for use in the manufacture of rubber articles intended for repeated use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by March 11, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3B4389) has been filed by Reichhold Chemicals, Inc., P.O. Box 13582, Research Triangle Park, NC 27709–3582. The petition proposes to amend the food additive regulations in § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) to provide for the safe use of 1,2-benzisothiazolin-3-one as a biocide in rubber latex for use in the manufacture of rubber articles intended for repeated use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 11, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: January 22, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–2667 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. February 26, 1996, 8:30 a.m., Corporate Bldg., 9200 Corporate Blvd., rm. 020B, Rockville, MD. A limited number of overnight accommodations have been reserved at the Gaithersburg Marriott Washingtonian Center. Attendees requiring overnight accommodations may contact the hotel at 301–590–0044 and reference FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; Alfred W. Montgomery, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1180, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Obstetrics and Gynecology Devices Panel, code 12524.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 10, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues relating to a premarket approval application for a tubal occlusion device for female sterilization. The committee will also be presented with data from the Centers for Disease Control on the U.S. Collaborative Review of Sterilization, ''CREST'' study.

Food Advisory Committee

Date, time, and place. February 28 and 29, 1996, 8 a.m., Holiday Inn—Alexandria (formerly the Old Colony Inn), Commonwealth Ballrooms C and D, 625 First St., Alexandria, VA.

Type of meeting and contact person. Open committee discussion, February 28, 1996, 8 a.m. to 3:45 p.m.; open public hearing, 3:45 p.m. to 5:15 p.m., unless public participation does not last that long; open committee discussion, February 29, 1996, 8 a.m. to 1:15 p.m.; open public hearing, 1:15 p.m. to 1:45 p.m., unless public participation does not last that long; open committee discussion, 1:45 p.m. to 5 p.m.; Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS–5), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4727, or Catherine M. DeRoever, Advisory Committee Staff (HFS–22), 202–205–4251, FAX 202–205–4970, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Food Advisory Committee, code 10564.

General function of the committee. The committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person by close of business February 21, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. Comments may be limited to 5 minutes.

Open committee discussion. The committee will discuss the agency's responses to public comments on its 1992 policy for labeling, notification, testing, and allergenicity of foods derived from new plant varieties. The primary focus of the meeting will be a discussion of the status of labeling policies, both domestic and international, for foods derived using biotechnology. The committee will also discuss the actions and recommendations of its ephedra working group, which met on October 11 and 12, 1995. The recommendations of the working group, together with any amendatory comments from the committee, will be formally referred to FDA. If time permits, the committee will discuss FDA's concern about adverse health effects resulting from consumption of a fish known as escolar (also called oil fish, castor oil fish, or purgative fish), which is found in tropical or subtropical seas.

Under 21 CFR 14.20 and 14.35, interested persons may submit written information or views on the matter(s) before the committee. Voluminous data are to be accompanied by a summary. Submissions must be made to the Executive Secretary and not directly to any committee members. Substantive submissions received at least 3 weeks prior to a meeting may be included in members' briefing materials; submissions received later will be distributed at the committee meeting. All submissions that include copyrighted materials must be accompanied by documented permission for duplication and distribution at no copyright expense to FDA.

At least 50 copies of each submission must be provided; sufficient additional copies may be requested by the agency for distribution to the public at a meeting. Fewer copies of voluminous submissions will be required; only summaries of such submissions will be provided to committee members, with complete copies of submissions being made available for circulation among committee members and for viewing by the public at a meeting.

More detailed information regarding the meeting agenda that may become available prior to the meeting will be provided to the public via the 800 number given above.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the

meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 2, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–2664 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Clinical Chemistry and Clinical Toxicology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. February 26, 1996, 9 a.m., Holiday Inn—Gaithersburg, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301–948–8900 and reference FDA's Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 1 p.m.; closed presentation of data, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 4 p.m.; Cornelia B. Rooks, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1243, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Clinical Chemistry and Clinical Toxicology Devices Panel, code 12514.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 12, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket notification submission (510(k)) for a noninvasive transcutaneous glucose monitor intended for the quantitative determination of blood glucose in diabetics.

Closed presentation of data. The sponsor of the 510(k) will present to the committee trade secret and/or confidential commercial information. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing

from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 2, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–2689 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–1–F

[Docket No. 96N–0026]

Peripheral Blood Stem Cells: Discussion of Procedures for Collection, Processing, and Product Characterization; Notice of Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop to discuss procedures for preparation, processing, and characterization of human peripheral blood stem cells. The purpose of this scientific workshop, sponsored by FDA and the National Heart, Lung, and Blood Institute, National Institutes of Health, is to identify and discuss the steps for the collection, processing, and storage of peripheral blood stem cells for transplantation and to identify areas in need of further research. The scientific information presented at this workshop will aid FDA in regulating peripheral blood stem cells and identifying product standards.

DATES: The public workshop will be held on February 22 and 23, 1996, from 8 a.m. to 4:30 p.m. Preregistration is recommended because seating is limited. Registration is requested by February 16, 1996.

ADDRESSES: The public workshop will be held at the National Institutes of Health, Bldg. 10, Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT:

Regarding information on registration: Dawn Apple, KRA Corp., 1010 Wayne Ave., suite 850, Silver Spring, MD 20910, 301–495–1591, or FAX 301–495–9410.

Regarding information on the workshop agenda: Richard Lewis, Center for Biologics Evaluation and Research (HFM–380), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3524.

SUPPLEMENTARY INFORMATION: The purpose of this workshop is to identify and discuss steps for collection, processing, and storage of peripheral blood stem cells for transplantation and to identify what additional scientific data is needed in this area.

Topics to be discussed include the following: Product viability testing, donor leukopheresis, donor testing, product storage/transfer conditions, definition of cell types and numbers in the product, and differences between allogeneic and autologous use of peripheral blood stem cells.

FDA intends to make available at this workshop a draft document discussing the regulatory approach FDA believes is appropriate for human peripheral blood stem cell products for transplantation and, shortly thereafter, will publish in the Federal Register a notice of availability for the draft document. FDA will solicit written comments on its draft document. Written comments received will be reviewed and considered in determining whether amendments to, or revisions of, the approach are warranted.

Dated: February 5, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–2845 Filed 2–6–96; 11:47 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send

comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Identification of Extension Units of Outpatient Physical Therapy and Outpatient Speech Pathology Providers; *Form No.:* HCFA–381; *Use:* The Medicare Program requires outpatient physical therapy and outpatient speech pathology (OPT/OSP) providers to be surveyed to determine compliance with Federal requirements. The HCFA–381 is the form used to identify OPT/OSP locations; *Frequency:* Annually; *Affected Public:* Business or other for profit; *Number of Respondents:* 2,300; *Total Annual Hours:* 575.

2. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Fire Safety Survey Report; *Form No.:* HCFA–2786 A, B, C, D, F, G, H, J, K, L, M, P, Q; *Use:* These forms are used by the State Agency to record data collected in order to determine compliance with individual conditions during fire safety surveys and report it to the Federal Government; *Frequency:* Annually; *Affected Public:* State, local or tribal governments; *Number of Respondents:* 53; *Total Annual Hours:* 20,637.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.ssa.gov/hcfa/hcfahp2.html , or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources Management Planning and Analysis Staff, Attention: John Burke, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 1, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2650 Filed 2–7–96; 8:45 am]

BILLING CODE 4120–03–P

Submitted for Collection of Public Comment: Submission for OMB Review

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Health Care Financing Administration (HCFA), Department of Health and Human Services, is announcing that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request*: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection*: Peer Review Organization (PRO) Reporting Forms; *Form Nos.*: HCFA 613–627; *Use*: PROs are authorized to review inpatient and outpatient services for quality of care provided and to eliminate unreasonable, unnecessary, and inappropriate care provided to Medicare beneficiaries. The PROs are required to report the results of the review to HCFA. *Frequency*: Monthly, quarterly; *Affected Public*: Business or other for profit; *Number of Respondents*: 53; *Total Annual Hours*: 10,759.

2. *Type of Information Collection Request*: Revision of a currently approved collection; *Title of Information Collection*: Information Collection Requirements in HSQ 108–F, Assumption of Responsibilities; *Form No.*: HCFA R–71; *Use*: Rule establishes the review functions to be performed by the PRO and outlines the relationships among PROs, providers, practitioners, beneficiaries, fiscal intermediaries, and carriers. *Frequency*: Monthly, quarterly; *Affected Public*: Business or other for profit; *Number of Respondents*: 53; *Total Annual Hours*: 46,653.

3. *Type of Information Collection Request*: Extension of a currently approved collection; *Title of Information Collection*: Medical Records Review Under Prospective Payment System (PPS); *Form No.*: HCFA R–50; *Use*: PROs are authorized to conduct medical review activities under the PPS. In order to conduct medical review activities, we depend upon hospitals to make available specific records. *Frequency*: Annually; *Affected Public*: Business or other for profit; *Number of Respondents*: 6,412; *Total Annual Hours*: 22,400.

4. *Type of Information Collection Request*: Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection*: Home Health Agency Survey and Deficiencies Report, Home Health Functional Assessment Instrument; *Form Nos.*: HCFA–1572, HCFA–1515; *Use*: In order to participate in the Medicare program as a home health agency (HHA) provider, the HHA must meet Federal standards. These forms are used to record information about patients' health and provider compliance with requirement and report information to the Federal Government. *Frequency*: Annually; *Affected Public*: Business or other for profit; *Number of Respondents*: 8,622; *Total Annual Hours*: 129,330.

5. *Type of Information Collection Request*: Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection*: Survey Team Composition and Workload Report; *Form No.*: HCFA–670; *Use*: This form will provide information on resource utilization applicable to survey activity in the Medicare/Medicaid provider/supplier types and Clinical Laboratory Improvement Amendment (CLIA) laboratories. This information will assist HCFA in determining Federal reimbursement for surveys conducted. *Frequency*: Annually; *Affected Public*: State, local, or tribal governments; *Number of Respondents*: 53; *Total Annual Hours*: 71,667.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be sent within 30 days of this notice directly to the OMB Desk Officer designated at the

following address: OMB Human Resources, and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 1, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2649 Filed 2–7–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

National Practitioner Data Bank: Change in User Fee

The Health Resources and Services Administration (HRSA), Department of Health and Human Services (DHHS), is announcing a discount in the fee charged to entities authorized to request information from the National Practitioner Data Bank (Data Bank) for queries which meet all requirements for fully automated processing.

The current fee structure was announced in the Federal Register of June 7, 1995 (60 FR 30090). The user fee is $3.00 per name per query submitted via telecommunications network and paid via an electronic funds transfer or credit card, with query response sent via the telecommunications network. A $3.00 surcharge is charged for queries submitted electronically on diskette to pay for the extra handling and mailing costs for these queries. A $4.00 surcharge is charged for all queries which are paid for by check or money order to cover the cost of debt management.

The Data Bank is authorized by the Health Care Quality Improvement Act of 1986 (the Act), title IV of Public Law 99–660, as amended (42 U.S.C. 11101 *et seq.*). Section 427 (b)(4) of the Act authorizes the establishment of fees for the costs of processing requests for disclosure and of providing such information.

Final regulations at 45 CFR part 60 set forth the criteria and procedures for information to be reported to and disclosed by the Data Bank. Section 60.3 of these regulations should be consulted for the definition of terms used in this announcement.

A reassessment of the full operating costs related to processing requests for disclosure of Data Bank information, as required by the DHHS Appropriations Act of 1994 (title II of Pub. L. 103–112, dated October 21, 1993), as well as an analysis of the comparative costs of the various methods for filing and paying for queries, has resulted in a decision to further reduce fees for users when they both query and receive responses via the telecommunications network as well as pay query fees by credit card, electronic funds transfer or such other electronic transfer options as may be offered in the future. The options to query and pay user fees by these means facilitate the querying process and make it less costly to both users and the Data Bank than all other available options.

Accordingly, the Department is implementing a $1.00 discount from the current $3.00 per name per query fee for queries submitted both electronically and paid via the methods described above, with receipt by electronic method. The discounted fee for such queries will be $2.00. This change is effective January 1, 1996.

The criteria set forth in § 60.12 (b) of the regulations and allowable costs required by the Appropriations Act of 1994 were used in determining the amount of this new fee. The criteria include such cost factors as: (1) Electronic data processing time, equipment, materials, computer programmers and operators or other employees; and (2) preparation of reports—materials, photocopying, postage, and administrative personnel.

When a query is for information on one or more physicians, dentists, or other health care practitioners, the appropriate total fee will be $3.00 (less a $1.00 discount or plus a $3.00 and/or a $4.00 surcharge for submission and payment as described above) multiplied by the number of individuals about whom information is being requested. For examples, see the table below.

The fee charged will be reviewed periodically, and revised as necessary, based upon experience. Any changes in the fee, and the effective date of the change, will be announced in the Federal Register.

Query method	Fee per name in query, by method of payment	Examples
Electronic query (Telecom network) with electronic payment.	$2.00 (if paid electronically via credit card or other electronic means and response received electronically ($3.00 fee less $1.00 discount).	10 names in query. 10×$2=$20.00.
Electronic query (Diskette) with electronic payment.	$6.00 (if paid electronically via credit card or other electronic means and response received on paper) ($3.00 fee plus $3.00 surcharge).	10 names in query. 10×$6=$60.00.
Electronic query (Telecom network) with non-electronic payment.	$7.00 (if not paid via credit card or other electronic means) ($3.00 fee plus $4.00 surcharge).	10 names in query. 10×$7=$70.00.
Electronic query (Diskette) with non-electronic payment.	$10.00 (if not paid via credit card or other electronic means) ($3.00 fee plus $3.00 and $4.00 surcharges).	10 names in query. 10×$10=$100.00

Dated: February 5, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–2687 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–6310–04–241A]

Emergency Closure of Public Lands: Jackson County, Oregon

AGENCY: Bureau of Land Management, Medford District Office, Ashland Resource Area.

ACTION: Emergency closure of public lands and access roads in Jackson County, Oregon.

Notice is hereby given that certain public lands in Jackson County, Oregon are hereby temporarily closed to all public use, including vehicle operation and sightseeing, from January 25, 1996, until notice is rescinded. The closure is made under the authority of 43 CFR 9268.3(d)(1)(l) and 8364.1(a).

The public lands affected by this emergency closure are specifically identified as follows:

Keno Access Road (39–7E–31) and Howard Prairie Hook-Up Road (38–4E–32) T. 38 S., R. 4 E., Secs. 19, 29, 32, 33, 34, and 35,

and T. 38 S., R. 3 E., Sec. 13, Willamette Meridian, Jackson County, Oregon.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; and the holders of BLM permits and/or contracts. Access by additional parties may be allowed, but must be approved by the Authorized Officer of his representative.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public land temporarily closed to unauthorized public use under this order will be posted with signs at points of public access.

The purpose of this emergency temporary closure is to protect persons from potential harm and protect valuable public unauthorized abuse.

This closure is effective from January 25, 1996, until this notice is rescinded.

FOR FURTHER INFORMATION CONTACT: Dave Jones, District Manager, Medford District Office, at (541) 770–2200.

Dated: January 30, 1996.

David A. Jones,

District Manager.

[FR Doc. 96–2731 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–33–M

[CO–050–05–1110–00]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next meeting of the Front Range Resource Advisory Council (Colorado) will be held on Tuesday, February 20, 1996 in Canon City, Colorado. The meeting is scheduled to begin at 9:00 a.m. at BLM's Canon City District Office, 3170 East Main Street, Canon City, Colorado. Notice of this meeting was delayed until a Continuing Resolution was passed to avoid the possibility of cancelling the meeting. The agenda for the Front Range Resource Advisory Council meeting will include: update on Rangeland Standard and Guidelines, issues for future Resource Advisory Council involvement, and discussion on offering a Rangeland Ecosystem Management course.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Tuesday, February 20, 1996 from 9 a.m. to 5 p.m.

ADDRESSES: Bureau of Land Management (BLM), Canon City District Office, 3170 East Main Street, Canon City Colorado 81212; Telephone (719) 269–8500; TDD (719) 275–4346.

FOR FURTHER INFORMATION CONTACT: Ken Smith at (719–269–8500).

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 96–2647 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–JB–M

[CO–010–06–1020–00–241A]

Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the next meetings of the Northwest Colorado Resource Advisory Council will be held on Wednesday, February 28, 1996 in Meeker, Colorado; Thursday, March 14, 1996 in Craig, Colorado; and Thursday, April 11, 1996 in Glenwood Springs, Colorado.

DATES: Meetings are scheduled for Wednesday, February 28, 1996; Thursday, March 14, 1996 and Thursday, April 11, 1996.

ADDRESSES: For further information, contact Lynda Boody, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3000; TDD (970) 244–3011.

SUPPLEMENTARY INFORMATION: All meetings are scheduled to begin at 9 a.m. Wednesday, February 28, 1996: This meeting will be held at the Bureau of Land Management, White River Resource Area Office, 73544 Highway 64, Meeker, Colorado 81641 in the Conference Room.

Thursday, March 14, 1996: This meeting will be held at the Holiday Inn of Craig, 300 South Colorado, Hwy. 13, Craig, Colorado 81625.

Thursday, April 11, 1996: This meeting will be held at the Garfield County Courthouse, 109 Eighth St., Glenwood Springs, CO 81601, Room number 301.

The agenda for these meetings will focus on general Council business, standards and guidelines for grazing, and issue identification by Resource Area Managers.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Public comment will be taken throughout the meeting. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the Grand Junction/Craig District Manager.

Summary minutes for the Council meeting will be maintained in the Grand Junction and Craig District Offices and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: January 30, 1996.

Mark T. Morse,

Grand Junction/Craig District Manager.

[FR Doc. 96–2730 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–70–M

[NV–030–96–1020–00–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings of the Sierra Front/Northwest Great Basin Resource Advisory Council meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA, 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), Council meetings will be held as indicated below. The agenda for each meeting includes approval of minutes of the previous meeting, discussion and development of Standards and Guidelines for management of the public lands within the jurisdiction of

the Council and determination of the subject matter for future meetings.

All meetings are open to the public. The public may present written comments to the Council. The public comment period is listed below.

DATES, TIMES: Sierra Front/Northwest Great Basin Resource Advisory Council, BLM Carson City Office, 1535 Hot Springs Road, Carson City, NV 89706: February 29 starting 10 a.m.; public comment will be at 3:30 p.m. The meeting will continue March 1 at 8 a.m.

Sierra Front/Northwest Great Basin Resource Advisory Council, BLM Nevada State Office, 850 Harvard Way, Reno, NV 89520: March 14 starting at 10 a.m.; public comment will be at 3:30 p.m. The meeting will continue on March 15 beginning at 8 a.m.

Sierra Front/Northwest Great Basin Resource Advisory Council, BLM Carson City Office, 1535 Hot Springs Road, Carson City, NV 89706: March 28 starting at 10 a.m.; public comment will be at 3:30 p.m. The meeting will continue on March 29 beginning at 8 a.m.

FOR FURTHER INFORMATION CONTACT: Joan Sweetland, BLM Public Affairs Officer, 1535 Hot Springs Road, Carson City, NV 89706–0638. (Phone: 702–885–6000)

Dated this 30th day of January, 1996.

John O. Singlaub,

District Manager, Carson City District.

[FR Doc. 96–2732 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–HC–M

[NV–020–1430–01; N–57999]

Airport Lease Application

ACTION: Notice of Airport Lease Application N–57999.

SUMMARY: Notice is hereby given that pursuant to section 302 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2762), in accordance with provisions of federal regulations under 43 CFR 2920, an application has been filed for authorization of a private airport lease on the following described lands:

Mount Diablo Meridian, Nevada

T. 44 N., R. 37 E.,
Sec. 11: SE¼NW¼, NW¼NE¼SW¼, E½NW¼SW¼.

The area described contains 5.73 acres and is located near Orovada in Humboldt County, Nevada.

For a period of 45 days from the date of this notice, interested persons may submit comments to the District Manager, Bureau of Land Management, 705 E. 4th St., Winnemucca, NV 89445.

In the absence of adverse comments, the application will be processed in accordance with proper application procedures.

SUPPLEMENTARY INFORMATION: Upon publication in the Federal Register, the land will be segregated from all other forms of appropriation under the public land laws.

FOR FURTHER INFORMATION CONTACT: Realty Specialist Mary Figarelle, Bureau of Land Management, 705 E. 4th St., Winnemucca, NV 89445, or call 702–623–1500.

Dated: January 24, 1996.

Ron Wenker,

Winnemucca District Manager.

[FR Doc. 96–2669 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–HC–P

Bureau of Reclamation

Narrows Project, Small Reclamation Project Act (SRPA) Loan Program, Utah

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: The Bureau of Reclamation (Reclamation) intends to prepare a draft environmental impact statement (EIS), pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4332. The draft EIS will address the effects of various alternatives considered for the Narrows Project (Project), SRPA Application.

The purpose of the Project would be to provide water for irrigation and municipal use in north Sanpete County, Utah. The proposed project would include construction of a dam on Gooseberry Creek to impound and store water and construction of a tunnel/pipeline to deliver Project water to irrigation and municipal water users in northern Sanpete County, Utah. This provides notice that a new Draft and subsequent Final EIS will be prepared which will supersede the contractor-prepared Final EIS.

DATES AND ADDRESSES: No formal scoping meetings are planned. Those interested in the Project are invited to submit comments. These comments should relate to potential environmental issues and impacts or reasonable alternatives to the proposed action. These comments should be submitted in writing by March 15, 1996, to Kerry Schwartz, Environmental Protection Specialist, Bureau of Reclamation, Provo Area Office, 302 East 1860 South, Provo, Utah 84604–7317; or Michael Stuver, Regional Loan Engineer, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for subsequent information concerning this EIS, either write Kerry Schwartz at the address above, or call (801) 379–1000. For answers to questions concerning the project please write Michael Stuver at the address above, or call (810) 524–3305 extension 3.

SUPPLEMENTARY INFORMATION: On February 2, 1995, Reclamation filed a contractor-prepared final EIS for the proposed Narrows Project. On May 8, 1995, the Upper Colorado Regional Director executed a Record of Decision for the Project based on this EIS. On September 11, 1995, Reclamation filed a Federal Register Notice to rescind this Record of Decision. Reclamation intends to prepare a new EIS to replace the previous contractor-prepared EIS. The previous EIS material will be treated as environmental information submitted by the applicant for use by the agency in preparing an EIS, pursuant to 40 CFR, Section 1506.5(a).

Dated: February 2, 1996.

Charles A. Calhoun,

Regional Director.

[FR Doc. 96–2728 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–94–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit 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–810466

Applicant: Ken Wilson, Kerrville, TX

The applicant requests a permit to authorize interstate and foreign commerce, export, and cull of excess male barasingha (*Cervus duvauceli*) and Eld's deer (*Cervus eldi*) from his captive herd for the purpose of enhancement of the survival of the species.

PRT–810465

Applicant: A.R. Galloway Exotic Ranch, Pearsall, TX

The applicant requests a permit to authorize interstate and foreign commerce, export, and cull of excess

male barasingha (*Cervus duvauceli*) and Eld's deer (*Cervus eldi*) from his captive herd for the purpose of enhancement of the survival of the species.

PRT–693112

Applicant: University of Michigan, Ann Arbor, MI

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research. This notification covers activities conducted by the applicant over a period of five years.

PRT–810513

Applicant: Florida Department Environmental Protection, Tallahassee, FL

The applicant requests a permit to export egg shells collected from nests where hatchling emergences had already occurred of green sea turtle (*Chelonia mydas*) for the purpose of scientific research.

PRT–810521

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to import five male and seven female captive-hatched Jamaican iguana (*Cyclura collei*) from Hope Zoological Gardens, Kingston, Jamaica, for the purpose of scientific research and enhancement of the species through captive breeding and conservation education.

PRT–810611

Applicant: Matson's Laboratory, Milltown, MT

The applicant requests a permit to import teeth collected from wood bison (*Bison bison athabascae*) in the Mackenzi Sanctuary herd, from the Department of Renewable Resources, Government of the Northwest Territories, Canada, for the purpose of gaining data used in an ongoing population management program. This notification covers activities conducted by the applicant over a period of five years.

PRT–809138

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to re-export one captive-hatched red-crowned crane (*Grus japonensis*) to the Cracids Breeding and Conservation Center, Lanaken, Belgium, for the purpose of enhancement of the species through captive breeding.

PRT–810098

Applicant: Little Rock Zoological Garden, Little Rock, AR

The applicant requests a permit to import one captive-born Sumatran orangutan (*Pongo pygmaeus abelii*) from the Metro Toronto Zoo, Ontario, Canada, for the purpose of enhancement of the species through captive breeding.

PRT–810619

Applicant: The Phoenix Zoo, Phoenix, AZ

The applicant requests a permit to import one captive-born male Brazilian ocelot (*Leopardus pardalis mitis*) from San Paulo Zoo, San Paulo, Brazil, for the purpose of enhancement of the species through captive breeding.

PRT–807708

Applicant: Philadelphia Zoological Garden, Philadelphia, PA

The applicant requests a permit to import an additional captive-born female bicolored tamarin (*Saguinus bicolor bicolor*) from the Jersey Wildlife Preservation Trust, Channel Islands, United Kingdom, for the purpose of enhancement of the species through captive breeding. This amends the Federal Register Notice of October 25, 1995.

PRT–810681

Applicant: John Dorrance, III, Devils Tower, WY

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygarcus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 2, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–2681 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Information Collection Under Review

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the Federal Register. This process is conducted in accordance with 5 Code of Federal Regulation, Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directly to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

(1) Type of information collection. New Collection.

(2) The title of the form/collection. Organizational Study, Evaluation of the ''Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program.''

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: None. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: Not-for-Profit Institutions. Other: State, Local or Tribal Governments. The study focuses on information about program policies and mechanisms used to analyze and address the gang problem, including interorganizational relationships, and to test the effectiveness of the OJJDP approach over time. Respondents will be mainly administrative personnel in organizations participating in the program and a comparable group not participating in the comprehensive approach.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 250 responses per year at 2.0 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection. 500 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: February 1, 1996.

Robert B. Briggs,

Department Clearance Office, United States Department of Justice.

[FR Doc. 96–2704 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–18–M

Notice of Consent Decree in Comprehensive Environmental Response, Compensation and Liability Action; Ralph Riehl, et al.

In accordance with the Departmental Policy, 28 CFR § 50.7, notice is hereby given that a consent decree in *United States* v. *Ralph Riehl, et al.*, Civil Action No. 89–226E, was lodged with the United States District Court for the Western District of Pennsylvania on December 28, 1995.

On October 16, 1989, the United States filed a complaint against the owners and operator of, and certain transporters to, the Millcreek Dump Superfund Site (the ''Site''), pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9607(a). This proposed Consent Decree resolves the liability of Sitter Trucking Company, James Sitter, Gilbert Sitter, and Ronald Sitter (''the Sitters'') for response costs incurred and to be incurred by the United States at the Site. The proposed Consent Decree requires the Sitters to pay $40,000.00 in reimbursement of response costs.

The Department of Justice will accept written comments relating to this Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *Ralph Riehl, et al.*, DOJ No. 90–11–3–519.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Pennsylvania, Federal Building and Courthouse, Room 137, 6th and State Streets, Erie, Pennsylvania, 15219; Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005 (202) 624–0892. A copy of the proposed Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005. When requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $6.75 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 96–2659 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decrees; Selma Pressure

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and pursuant to Section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(d)(2), notice is hereby given that two proposed Consent Decrees in *United States* v. *Selma Pressure Treating Co., et al.*, were lodged with the United States District Court for the Eastern District of California, Fresno Division, on January 2, 1996. This action was brought pursuant to Section 107 of CERCLA, 42 U.S.C. 9607.

Under one proposed Consent Decree, Gerald Petery and Selma Leasing Company agree to pay a total of $720,000 to the United States and $80,000 to the State of California. Under the other proposed Consent Decree, Mary Ann Schuessler and Selma Pressure Treating Company agree to pay a total of $675,000 to the United States and $75,000 to the State of California. These funds are being paid to reimburse the United States for environmental response actions taken at the Selma Pressure Treating facility in Selma, California. Response activities are continuing at this site.

The Department of Justice will receive, for a period of 30 days from the date of this publication, comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Selma Pressure Treating Co., et. al.*, D.J. Ref. 90–11–2–383.

The proposed Consent Decrees may be examined at the office of the United States Attorney, 3654 Federal Building, 1130 O Street, Fresno, California; the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies the proposed Consent Decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC. 20005. In requesting a copy, please refer to the referenced case and enclosed a check in the amount of $8.50 for the decree with Gerald Petery and Selma Leasing Company and $6.00 for the decree with Mary Ann Schuessler and Selma Pressure Treating, ($0.25 per page reproduction costs), payable to ''Consent Decree Library.''

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–2660 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of a Consent Decree Pursuant to the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Shell Oil Company,*

Civil Action No. 96–0328, Sec. A, Mag 2, was lodged on January 26, 1996, with the United States District Court for the Eastern District of Louisiana.

The Consent Decree between the United States and Shell Oil Company resolves violations of the Clean Air Act (''CAA''), New Source Performance Standards (''NSPS'') and National Emission Standards for Hazardous Air Pollutants (''NESHAP''); the Safe Drinking Water Act (''SDWA''); the Emergency Planning and Community Right to Know Act (''EPCRA''); the Clean Water Act (''CWA'') and the company's National Pollutant Discharge Elimination System (''NPDES'') Permits; and the Resource Conservation and Recovery Act (''RCRA'') and the state and federal hazardous waste regulations. These violations occurred at the company's refinery and chemical facilities in Norco, Louisiana. The Consent Decree includes a requirement that Shell Oil Company pay a civil penalty of $1,000,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Shell Oil Company*, DOJ Ref. No. 90–7–1–629A.

The proposed Consent Decree may be examined at the office of the United States Attorney, Hale Boggs Building, Room 201, 501 Magazine Street, New Orleans, Louisiana 70130; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–2661 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States of America vs. Pacific Scientific Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia In *United States* vs. *Pacific Scientific Company*, Civ. No. 96–0165. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h).

On January 30, 1996, the United States filed a Complaint seeking to enjoin a transaction by which Pacific Scientific agreed to acquire Met One, Inc. Pacific Scientific and Met One are major manufacturers of drinking water particle counters. The Complaint alleged that the proposed acquisition would substantially lessen competition in the manufacture and sale of drinking water particle counters in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.

The proposed Final Judgment orders defendant to sell all of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems, and other assets if necessary to make an economically viable competitor in the manufacture and sale of drinking water particle counters. The Stipulation effects a hold separate agreement that, in essence, requires Pacific Scientific to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, Met One's operation will be held separate and apart from, and operated independently of, Pacific Scientific's assets and businesses. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the Federal Register and filed with the Court. Written comments should be directed to Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, Room 3700, 1401 H Street NW., Washington, D.C. 20530 (202–307–5779). Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection in Room 207 of the U.S. Department of Justice, Antitrust Division, 325 7th Street NW., Washington, D.C. 20530 (telephone: (202) 514–2481), and at the office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue NW., Washington, D.C. 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff vs. Pacific Scientific Company, a corporation; Defendant Docket No.: 96–0165.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the District for the District of Columbia.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

(3) Pacific Scientific shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(4) Pacific Scientific shall prepare and deliver reports in the form required by the provisions of paragraph B of Section VII of the proposed Final Judgment commencing no later than February 29, 1996, and every thirty days thereafter pending entry of the Final Judgment.

(5) In the event plaintiff withdraws its consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: January 26, 1996.

For Plaintiff United States of America.

Craig W. Conrath,

Attorney, U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street NW., Washington, D.C. 20005, (202) 307–5779.

For the Defendant Pacific Scientific Company.

Donald I. Baker,

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In the United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff v. Pacific Scientific Company, a corporation Defendant. Civil Action No.: 96–0165.

Final Judgment

Whereas plaintiff, United States of America (hereinafter ''United States'') having filed its Complaint herein, and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, prompt and certain divestiture of certain assets is the essence of this agreement;

And whereas, the parties intend to require defendant to divest, as a viable line of business, the Drinking Water Quality Monitoring Assets so as to ensure, to the sole satisfaction of the plaintiff, that the Acquirer will be able to manufacture and sell Drinking Water Quality Monitoring Systems as a viable, ongoing line of business;

And whereas, defendant has represented to plaintiff that the divestitures required below can and will be made and that defendant will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged, and decreed as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. ''Drinking Water Quality Monitoring Systems'' means water particle detection systems used in the evaluation of potable water, including but not limited to: (1) on-line systems, such as the ''Water Particle Counting System'' (WPCS™), (2) portable systems, such as the VersaCount LV™/LogEasy™ integrated water sample particle counting system, and (3) laboratory-based systems, such as stationary liquid batch sample particle counting systems.

B. ''Pacific Scientific'' means defendant Pacific Scientific Company, a California corporation with its headquarters in Newport Beach, California, and includes its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

C. ''Met One'' means Met One, Inc., a California corporation with its headquarters in Grants Pass, Oregon, and its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

D. ''Drinking Water Quality Monitoring Assets'' means all of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems. Drinking Water Quality Monitoring Assets include, but are not limited to, all Pacific Scientific rights to patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, production information, manufacturing information, testing and quality control data, servicing information, research materials, technical information, distribution information, information stored on management information systems (and specifications sufficient for the Acquirer to use such information), software specific to drinking water qualify monitoring systems, inventory sufficient for the Acquirer to complete all safety and efficacy studies, studies or tests necessary to obtain EPA or other governmental approvals, and all data, contractual rights, materials and information relating to obtaining EPA approvals and other government or regulatory approvals within the United States, and certain rights to brand or trade names (excluding the HIAC/Royco, Royco, Pacific Scientific, and Met-One trade names). Drinking Water Quality Monitoring Assets also include all Pacific Scientific customer lists, customer information, prospects, mailing lists, quotations and proposals for Drinking Water Quality Monitoring Systems and their applications, service contracts for Drinking Water Quality Monitoring Systems and their applications, advertising materials, advertising assistance, marketing training, and marketing assistance for Drinking Water Quality Monitoring Systems and their applications, and copies of and rights to software and technical information for Drinking Water Quality Monitoring Systems and their applications. Drinking Water Quality Monitoring Assets shall include assets sufficient, to the sole satisfaction of the plaintiff, to ensure that the Acquirer will be able to manufacture and sell Drinking Water Quality Monitoring Systems as a viable, ongoing line of business.

E. ''Divestiture Assets'' means the Drinking Water Quality Monitoring Assets, or such lesser portion thereof as is sufficient to ensure, to the sole satisfaction of the plaintiff, that the Acquirer will be able to manufacture and sell Drinking Water Quality Monitoring Systems as a viable, ongoing line of business.

F. ''Acquirer'' means the entity or entities to whom Pacific Scientific shall divest the Divestiture Assets.

III. Applicability

A. The provisions of this Final Judgment apply to the defendant, its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Pacific Scientific shall require, as a condition of the sale or other disposition of all or substantially all of the Divestiture Assets other than as provided in this Final Judgment, that the acquiring party or parties agree to be

bound by the provisions of this Final Judgment.

IV. Requirement to Hold Separate

Prior to the divestiture contemplated by this Final Judgment:

A. Pacific Scientific shall preserve, hold, and continue to operate the business of Pacific Scientific and the business of Met One as ongoing businesses, with their assets, management, and operations separate, distinct, and apart from one another. Pacific Scientific shall use all reasonable efforts to maintain the business of Pacific Scientific and the business of Met One as viable and active competitors.

There shall be no exchange between Pacific Scientific or Met One of any confidential business information (other than accounting information required in the ordinary course of business) or any technology or know-how.

B. Pacific Scientific shall not, without the consent of the United States, sell, lease, assign, transfer, or otherwise dispose of, or pledge as collateral for loans (except such loans and credit facilities as are currently outstanding or replacements or substitutes therefor) the Divestiture Assets or any business assets of Met One, except that any such asset that is replaced in the ordinary course of business with a newly purchased asset may be sold or otherwise disposed of, provided the newly purchased asset is identified as a replacement for an asset to be divested.

C. In its efforts to preserve and maintain the business of Pacific Scientific and the business of Met One as viable and active competitors, the obligations of Pacific Scientific shall include, but are not limited to: preserving all equipment, all rights to brand or trade names, patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, production information, manufacturing information, testing and quality control data, servicing information, research materials, technical information, distribution information, customer lists, information stored on management information systems (and specifications sufficient for the Acquirer to use such information), software specific to Pacific Scientific's or Met One's divestiture assets, inventory sufficient for the Acquirer to complete all safety and efficacy studies, studies or tests necessary to obtain EPA or other governmental approvals, and all data, contractual rights, materials and information relating to obtaining EPA approvals and other government or regulatory approvals within the United States. These obligations do not preclude sales in the ordinary course of business.

D. Pacific Scientific shall provide and maintain sufficient working capital to maintain the Divestiture Assets business and the business of Met One as viable, ongoing businesses.

E. Pacific Scientific shall provide and maintain sufficient lines and sources of credit to maintain the Divestiture Assets business and the business of Met One as viable, ongoing businesses.

F. Pacific Scientific shall preserve the business assets of Pacific Scientific and Met One in a state of repair equal to their state of repair as of the date of Pacific Scientific's acquisition of Met One.

G. Pacific Scientific shall maintain on behalf of the businesses of Pacific Scientific and Met One in accordance with sound accounting practice, separate, true and complete financial ledgers, books and records reporting the profit and loss and liabilities of the businesses on a monthly and quarterly basis.

H. Pacific Scientific shall refrain from terminating or reducing any current employment, salary, or benefit agreements for any management, engineering, or other technical personnel employed by Met One or by Pacific Scientific in connection with the Divestiture Assets business of Pacific Scientific, except in the ordinary course of business, without the prior approval of the United States.

I. Pacific Scientific shall refrain from taking any action that would have the effect of reducing the scope or level of competition between the businesses of Pacific Scientific and Met One without the prior approval of the United States.

J. Pacific Scientific shall refrain from taking any action that would jeopardize its ability to divest the Divestiture Assets as a viable ongoing line of business.

K. When an agreement has been reached for the sale of the Divestiture Assets that is satisfactory to the plaintiff in its sole discretion, Pacific Scientific may be released from the restrictions of this Part IV once the divestiture sale has been consummated, in the sole discretion of the plaintiff. Such release shall become effective when plaintiff so notifies the Court.

V. Divestiture of Assets

A. Pacific Scientific is hereby ordered and directed, within 30 days of the date this Order is entered, to divest the Divestiture Assets. Plaintiff, in its sole discretion, may agree to an extension of this time period, and shall notify the Court in such circumstances.

B. Divestiture of the Divestiture Assets under Section V.A shall be accomplished in such a way as to satisfy the United States that the Divestiture Assets can and will be operated by the Acquirer as a viable, ongoing line of business.

Divestiture of the Divestiture Assets under Section V.A shall be made to a purchaser for whom it is demonstrated to the sole satisfaction of the United States that (1) the purchase is for the purpose of competing effectively in the manufacture and sale of Drinking Water Quality Monitoring Systems, and (2) the Acquirer has the managerial, operational, and financial capability to compete effectively in the manufacture and sale of Drinking Water Quality Monitoring Systems.

C. Pacific Scientific shall take all reasonable steps to accomplish quickly the divestitures contemplated by this Final Judgment.

D. Pacific Scientific agrees that, if it fails to divest the Divestiture Assets within the time specified in Section V.A, it shall not oppose nor contest in any way a civil contempt penalty of not more than $100,000 as may be recommended and moved for by the United States. Pacific Scientific further agrees that, if it fails to divest the Divestiture Assets within the time specified in Section V.A, it shall not oppose nor contest in any way civil contempt penalties of not more than $10,000 per day, for each day after the date the United States moves for the appointment of a trustee pursuant to Section VI.A until the date it consents to appointment of a trustee pursuant to Section VI, as may be recommended and moved for by the United States.

VI. Appointment of Trustee

A. In the event that Pacific Scientific has not divested the Divestiture Assets within 30 days of the date this Order is entered, the Court shall, on application of the United States, appoint a trustee selected by the United States to effect the divestiture of the Divestiture Assets. Unless plaintiff otherwise consents in writing, the divestiture shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as a viable on-going line of business. The Divestiture shall be made to an Acquirer for whom it is demonstrated to plaintiff's sole satisfaction that the Acquirer has the managerial, operational, and financial capability to compete effectively, and that none of the terms of the divestiture agreement interfere with the ability of the purchaser to compete effectively.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Section VII of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. The trustee shall have the power and authority to hire at the cost and expense of defendant any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be solely accountable to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to plaintiff, and shall have such other powers as this Court shall deem appropriate. Defendant shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance, or on the grounds that the sale is contrary to the express terms of this Final Judgment. Any such objections by defendant must be conveyed in writing to plaintiff and the trustee within ten (10) days after the trustee has provided the notice required under Section VII.

C. The trustee shall serve at the cost and expense of Pacific Scientific, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Pacific Scientific and the trust shall then be terminated. The compensation of such trustee and that of any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Pacific Scientific shall use its best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel books, records, and facilities of Pacific Scientific and Met One, and defendant shall develop financial or other information relevant to such assets as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendant shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

F. The Acquirer shall not, without the prior written consent of the United States, sell any of the acquired assets to, or combine any of the acquired assets with those of, Pacific Scientific during the life of this decree. Furthermore, the Acquirer shall notify plaintiff 45 days in advance of any proposed sale of all or substantially all of the assets, or control over those assets, acquired pursuant to this Final Judgment.

VII. Notification

A. Pacific Scientific or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify plaintiff of any proposed divestiture required by Section V or VI of this Final Judgment. If the trustee is responsible, it shall similarly notify Pacific Scientific. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same. Within fifteen (15) days after receipt of the notice, plaintiff may request additional information concerning the proposed divestiture, the proposed purchaser, and any other potential purchaser. Pacific Scientific or the trustee shall furnish the additional information within fifteen (15) days of the receipt of the request. Within thirty (30) days after receipt of the notice or within fifteen (15) days after receipt of the additional information, whichever is later, the United States shall notify in writing Pacific Scientific and the trustee, if there is one, if it objects to the proposed divestiture. If the United States fails to object within the period specified, or if the United States notifies in writing Pacific Scientific and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to Pacific Scientific's limited right to object to the sale under Section VI.B. Upon objection by the United States or by Pacific Scientific under Section VI.B, the proposed divestiture shall not be accomplished unless approved by the Court.

B. Thirty (30) days from the date when this Order becomes final, and every thirty (30) days thereafter until the divestiture has been completed or a trustee is appointed, Pacific Scientific shall deliver to plaintiff a written report as to the fact and manner of compliance with Section V of this Final Judgment. Each such report shall include, for each person who during the preceding thirty (30) days made an offer, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in the Divestiture Assets or any of them, the name, address, and telephone number that person and a detailed description of each contact with that person during that period. Pacific Scientific shall maintain full records of all efforts made to divest all or any portion of the Divestiture Assets.

VIII. Financing

Pacific Scientific shall not finance all or any part of any purchase made pursuant to Sections V or VI of this Final Judgment without the prior written consent of the United States.

IX. Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States, including consultants and other persons retained by the plaintiff, shall, upon the written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Pacific Scientific made to its principal offices, be permitted:

1. access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda,

and other records and documents in the possession or under the control of defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. subject to the reasonable convenience of Pacific Scientific and without restraint or interference from them, to interview Pacific Scientific directors, officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, made to Pacific Scientific at its principal offices, Pacific Scientific shall submit written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information nor any documents obtained by the means provided in this Section IX shall be divulged by any representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Pacific Scientific to plaintiff, Pacific Scientific represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Pacific Scientific marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then plaintiff shall give ten (10) days notice to Pacific Scientific prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Pacific Scientific is not a party.

X. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XI. Termination

This Final Judgment will expire on the tenth anniversary of the date of its entry.

XII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

_____

United States District Judge

United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff, v. Pacific Scientific Company, Defendant. *Case Number* 1:96CV00165. *Judge:* James Robertson. *Deck Type:* Antitrust. *Date Stamp:* 01/30/96.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on January 30, 1996, alleging that the proposed acquisition of all of the outstanding shares of Met One, Inc. (''Met One'') by Pacific Scientific Company (''Pacific Scientific'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1. Pacific Scientific and Met One are the nation's two leading manufacturers of drinking water particle counters.

The Complaint alleges that the combination of these major competitors would substantially lessen competition in the manufacture and sale of drinking water particle counters in the United States. The prayer for relief seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1; and (2) a preliminary and permanent injunction preventing Pacific Scientific and Met One from carrying out the proposed merger, or any similar agreement, understanding or plan.

Shortly before that suit was filed, a proposed settlement was reached that would permit Pacific Scientific to complete its acquisition of Met One's stock, yet preserve competition in the market in which the transaction would raise significant competitive concerns. A Stipulation and a proposed Final Judgment embodying the proposed settlement were filed as well.

The Stipulation effects a hold separate agreement that, in essence, requires Pacific Scientific to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, Met One's operations will be held separate and apart from, and operated independently of, Pacific Scientific's assets and businesses.

The proposed Final Judgment orders defendant to sell all of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems, and other assets if necessary, to make an economically viable competitor in the manufacture and sale of drinking water particle counters.

The United States and Pacific Scientific have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendant and the Proposed Transaction

Defendant Pacific Scientific Company is a California corporation with its headquarters in Newport Beach, California. Pacific Scientific Company reported annual sales in 1994 of approximately $234,700,000. HIAC/ROYCO, the division of Pacific Scientific that manufactures and sells drinking water particle counters, reported 1994 sales of $13,011,000, of which $1,270,000 came from drinking water particle counter sales.

Met One, Inc. is a California corporation with its headquarters in Grants Pass, Oregon. Met One reported net sales in 1994 of approximately $11,800,000, of which approximately $1,180,000 came from drinking water particle counter sales. Louis J. Petralli, Jr. is the majority and controlling owner of Met One.

Pacific Scientific proposes to acquire all outstanding stock of Met One for Pacific Scientific stock, and merge Met One into a newly created acquisition subsidiary.

B. The Drinking Water Particle Counter Market

Drinking water particle counters are devices sold largely to municipalities for the purpose of protecting against contamination of public drinking water

supplies. The drinking water particle counters made and sold by defendant are capable of detecting particles the size of potentially deadly microorganisms that may exist in public drinking water supplies. Drinking water particle counters such as those made by defendant generally include four components: a sensor, which directs a laser beam from a laser diode through the water being tested; a sampler, which provides a means to transport a sample of the water in which the particles are being counted undisturbed through the sensor; a counter, which sorts the signals from the sensor by voltage and assigns a particle size to the signals; and software, which translates data into a readable format.

Because drinking water particle counters are able to detect potentially harmful contaminants in public drinking water with greater sensitivity and efficiency than other technologies, such as turbiditymeters and microscopes, municipalities purchase them to satisfy their concerns for the purity and safety of their drinking water. For example, in 1993, 28 people in Milwaukee died as a result of drinking water contamination by one such microorganism—*Cryptosporidium*. At the time of that tragedy, Milwaukee had installed turbiditymeters but had not installed drinking water particle counters. Since 1993, Milwaukee has installed drinking water particle counters.[1]

Municipalities generally purchase drinking water particle counters through formal bid procedures. Although price is an important factor, municipalities also consider quality, reliability, service, and the reputation of the qualifying firms. Municipalities routinely request from each firm as part of that firm's bid package a list of references from past successful bids. Municipalities also routinely invite drinking water particle counter competitors to demonstrate the capabilities of their respective devices prior to the municipality's determination of the bid winner.

[1] Turbiditymeters are not part of the relevant market. Turbidity is an optical measurement of solid contamination suspended as particles in a fluid. Turbiditymeters have significantly different attributes than drinking water particle counters. For example, turbiditymeters cannot detect small quantities of microorganisms such as *Cryptosporidium*, as particle counters can. And, unlike drinking water particle counters, turbiditymeters do not provide exact data for the size and number of particles in a given medium. Municipalities do not consider turbiditymeters to be substitutes for drinking water particle counters.

C. Competition Between Pacific Scientific and Met One

Pacific Scientific and Met One compete directly in the manufacture and sale of drinking water particle counters. Pacific Scientific's Water Particle Counting System and Met One's on-line particle counting systems are regarded by municipalities as close substitutes, for they offer similar functionality, performance and features.

Pacific Scientific and Met One recognize the rivalry between their products in the relevant geographic market. Each firm has engaged in comparative selling techniques and competitive pricing strategies against the other firm in order to increase the likelihood of successful sales. Through these activities, Pacific Scientific and Met One have each operated as a significant competitive constraint on the other's prices and have each provided impetus for technological improvements in the other's systems. For example, when Met One was awarded the 1994 contract for particle counters provided to the City of San Francisco, Pacific Scientific wrote the city reminding it that Pacific Scientific rather than Met One was the low bidder. In its letter, Pacific Scientific also provided the city a detailed comparison of the Pacific Scientific product versus the Met One product. It has been common practice for municipalities to conduct side by side evaluations or demonstrations of the Pacific Scientific and Met One drinking water particle counters in considering the merits of each product's software and hardware capabilities.

D. Anticompetitive Consequences of the Acquisition

The Complaint alleges that the acquisition of Met One, Inc. by Pacific Scientific Company would reduce substantially or eliminate competition in the drinking water particle counter market in the United States and decrease incentives to maintain high levels of quality and service and to keep prices low.

Specifically, the Complaint alleges that the acquisition would increase concentration significantly in what is already a highly concentrated market.[2]

After the acquisition, the combined Pacific Scientific/Met One entity would dominate the drinking water particle counter market. Based on 1994 sales, the market share of the combined entity would be 65% of drinking water particle counters sold in the United States.

The complaint also alleges that entry into the market by a new firm selling drinking water particle counters would not likely be either timely or sufficient to prevent the harm to competition caused by Pacific Scientific's acquisition of Met One.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the manufacture and sale of drinking water particle counters in the United States. Within 30 days after entry of the Final Judgment, defendant will divest certain of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems, and other assets if necessary, to create an economically viable new competitor in the manufacture and sale of drinking water particle counters (in general, the ''Divestiture Assets'').

The proposed Final Judgment provides for the imposition of civil contempt penalties as an additional incentive for defendant to carry out the prompt divestiture of the Divestiture Assets and maintain competition in the drinking water particle counter market.

If defendant fails to divest the Divestiture Assets within 30 days after entry of the Final Judgment, the Court, upon application by the United States, shall appoint a trustee nominated by the United States to effect the divestiture of the Divestiture Assets. If a trustee is appointed, the proposed Final Judgment provides that Pacific Scientific will pay all costs and expenses of the trustee. The proposed Final Judgment also provides that the compensation of the trustee and of any professionals and agents retained by the trustee shall be both reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished. After appointment, the trustee will file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under the proposed Final Judgment. If the trustee has not accomplished the divestiture within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2)

[2] The Herfindahl-Hirschman Index (''HHI'') is a widely-used measure of market concentration. Following the acquisition, the appropriate post-merger HHI, calculated from 1994 dollar sales, would be 4842, an increase of 2108 from the premeger HHI.

the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. At the same time the trustee will furnish such report to the parties, who will each have the right to be heard and to make additional recommendations consistent with the purpose of the trust.

The proposed Final Judgment requires that Pacific Scientific and Met One be maintained separate and apart as independent entities prior to the divestiture contemplated by the Final Judgment.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street NW., Suite 3700, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against Pacific Scientific. The United States is satisfied, however, that the divestiture of the assets and other relief contained in the proposed Final Judgment will preserve viable competition in the manufacture and sale of drinking water particle counters that would otherwise be adversely affected by the acquisition. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the government's Complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination,

> The court *may* consider—
> (1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
> (2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). As the United States Court of Appeals for the D.C. Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [3] Rather,

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d at 1460–62. Precedent requires that—

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[4]

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[3] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[4] *United States* v. *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. *See also Microsoft*, 56 F.3d at 1461 (whether ''the remedies [obtained in the

Continued

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted).''[5]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: January 30, 1996.

Respectfully submitted,

John W. Van Lonkhuyzen,

Alexander Y. Thomas,

Trial Attorneys, U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street, NW., Suite 3700, Washington, DC 20530, (202) 307–6355.

[FR Doc. 96–2657 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Intelligent Processing of Materials-Physical Vapor Deposition Consortium (IPM–PVD)

Notice is hereby given that, on October 26, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), United Technologies Corporation and General Electric Company filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: United Technologies Corporation acting by and through its Pratt & Whitney Government Engines and Space Propulsion, Pratt & Whitney Corporation, acting by and through its United Technologies Research Center, East Hartford, CT; and the General Electric Company, acting by and through its GE Aircraft Engines (GEAE), and through its GE Cooperative Research and Development (GE–CRD) Center, Evendale, OH.

The objective of the program being pursued by the IPM–PVD is to conduct the development of a sensor package aimed at reducing processing costs, manufacturing variability and to enable implementation of advanced TBC architectures.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2658 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 1996 Adverse Effect Wage Rates and Allowable Charges for Agricultural and Logging Workers' Meals

AGENCY: U.S. Employment Service, Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs) and allowable charges for meals for 1996.

SUMMARY: The Director, U.S. Employment Service, announces 1996 adverse effect wage rates (AEWRs) for employers seeking nonimmigrant alien (H–2A) workers for temporary or seasonal agricultural labor or services and the allowable charges employers seeking nonimmigrant alien workers for temporary or seasonal agricultural labor or services or logging work may levy upon their workers when they provide three meals per day.

AEWRs are the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant alien agricultural workers (H–2A visaholders). AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers.

The Director also announces the new rates which covered agricultural and logging employers may charge their workers for three daily meals.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Robinson, Deputy Assistant Secretary for Employment and Training, U.S. Department of Labor, Room N–4700, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–219–5257 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Attorney General may not approve an employer's petition for admission of temporary alien agricultural (H–2A) workers to perform agricultural labor or services of a temporary or seasonal nature in the United States unless the petitioner has applied to the Department of Labor (DOL) for an H–2A labor certification. The labor certification must show that: (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H–2A program require that covered employers offer and pay their U.S. and H–2A workers no less than the applicable hourly adverse effect wage rate (AEWR). 20 CFR 655.102(b)(9); see also 20 CFR 655.107. Reference should be made to the preamble to the July 5, 1989, final rule (54 FR 28037), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). See also 52 FR 20496, 20502–20505 (June 1, 1987).

A. Adverse Effect Wage Rates (AEWRs) for 1996

Adverse effect wage rates (AEWRs) are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant (H–2A) agricultural workers. DOL emphasizes, however, that such employers must pay the highest of the AEWR, the applicable prevailing wage or the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Except as otherwise provided in 20 CFR Part 655, Subpart B, the regionwide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstances provisions of 20 CFR

decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '') (citations omitted).

[5] *United States* v. *American Tel. and Tel Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting United States* v. *Gillette Co., supra*, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

655.93) for which temporary alien agricultural labor (H–2A) certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA does not provide data on Alaska). 20 CFR 655.107(a).

The regulation at 20 CFR 655.107(a) requires the Director, U.S. Employment Service, to publish USDA field and livestock worker (combined) wage data as AEWRs in a Federal Register notice. Accordingly, the 1996 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE.—1996 ADVERSE EFFECT WAGE RATES (AEWRS)

State	1996 AEWR
Alabama	$5.40
Arizona	5.87
Arkansas	5.27
California	6.26
Colorado	5.64
Connecticut	6.36
Delaware	5.97
Florida	6.54
Georgia	5.40
Hawaii	8.60
Idaho	5.76
Illinois	6.23
Indiana	6.23
Iowa	5.90
Kansas	6.29
Kentucky	5.54
Louisiana	5.27
Maine	6.36
Maryland	5.97
Massachusetts	6.36
Michigan	6.19
Minnesota	6.19
Mississippi	5.27
Missouri	5.90
Montana	5.76
Nebraska	6.29
Nevada	5.64
New Hampshire	6.36
New Jersey	5.97
New Mexico	5.87
New York	6.36
North Carolina	5.80
North Dakota	6.29
Ohio	6.23
Oklahoma	5.50
Oregon	6.82
Pennsylvania	5.97
Rhode Island	6.36
South Carolina	5.40
South Dakota	6.29
Tennessee	5.54
Texas	5.50
Utah	5.64
Vermont	6.36
Virginia	5.80
Washington	6.82
West Virginia	5.54
Wisconsin	6.19
Wyoming	5.76

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their alien and U.S. workers in their applications for temporary logging and H–2A agricultural labor certification is the provision of three meals per day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts covered H–2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to covered H–2B logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are changed by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI–U for Food) between December of the year just past and December of the year prior to that. Those regulations and 20 CFR 655.111(a) and 655.211(a) provide that the appropriate Regional Administrator (RA), Employment and Training Administration, may permit an employer to charge workers no more than a higher maximum amount for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI–U for Food between December of the year just past and December of the year prior to that. The regulations require the Director, U.S. Employment Service, to make the annual adjustments and to cause a notice to be published in the Federal Register each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 1995 rates were published in a notice on February 7, 1995 at 60 FR 7215.

DOL has determined the percentage change between December of 1994 and December of 1995 for the CPI–U for Food was 2.8 percent.

Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 1996 are as follows: (1) for 20 CFR 655.102(b)(4) and 655.202(b)(4), the charge, if any, shall be no more than $7.17 per day, unless the RA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211(b); for 20 CFR 655.111 and 655.211, the RA may permit an employer to charge workers up to $8.95 per day for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentation required to support the higher charge.

Signed at Washington, D.C., this 1st day of February, 1996.

John M. Robinson,

Deputy Assistant Secretary for Employment and Training, U.S. Employment Service.

[FR Doc. 96–2714 Filed 2–7–96; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before March 25, 1996. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Veterans Affairs, Veterans Health Administration (N1–15–96–1). Records relating to special salary rates for certain health care occupations.

2. Department of State, Bureau of Consular Affairs (N1–59–96–1). Routine, facilitative, and duplicative records of the Office of Public Affairs and Policy Coordination.

3. Bureau of the Census (N1–29–96–1). 1990 decennial census time and attendance records for temporary employees (one-time exception to General Records Schedule 2, Item 8).

4. Executive Office of the President, Office of Science and Technology Policy (N1–359–96–1). Electronic and textual records created after July 14, 1994 that deal with routine administrative matters. (Master File of E–Mail messages will be preserved.)

5. National Archives and Records Administration (N1–GRS–95–4). Reduction in retention period for procurement files.

6. Peace Corps (N1–490–95–10). Medical technical procedural guidelines and field copies; and administrative reference copies of memoranda of understanding.

7. Tennessee Valley Authority (N1–142–93–2). Forest Stand Tally Sheets, 1934–1943.

Dated: January 30, 1996.

James W. Moore,

Assistant Archivist for Records Administration.

[FR Doc. 96–2729 Filed 2–7–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

The Federal Demonstration Project; Phase III Solicitation

AGENCIES: National Science Foundation, National Institutes of Health, Office of Naval Research, Department of Energy, Department of Agriculture, Air Force Office of Scientific Research, Army Research Office, Army Medical Research & Material Command, National Aeronautics & Space Administration, Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This Notice announces a solicitation to participate in Phase III of the Federal Demonstration Project (FDP), to test innovative approaches to streamline processes and systems for Federally supported research and education. FDP Phase III constitutes the continuation of the Florida Demonstration Project Phase I which ran from 1986 through 1988, and the Federal Demonstration Project Phase II which began in September 1988 and will conclude in June, 1996.

DATES: Proposals must be received by C.O.B. on March 20, 1996 (see section entitled ''Proposal Submission and Deadline'') Evaluation and selection of organizations will be completed about May 1, 1996. Project organization and execution of Phase II agreements will be completed about June 15, 1996.

FOR FURTHER INFORMATION CONTACT:

Ann Datko, U.S. Department of Agriculture, 202–401–4921, Adatko@reeusda.gov;
Geoffrey Grant, NIH, 301–435–0538, GRANTG@odrockm1.od.nih.gov;
Harry Haraldsen, Air Force Office of Scientific Research, 202–767–4990, haraldse@afosr.af.mil;
Robert Hardy, NSF, 703–306–1240, rhardy@nsf.gov;
Richard Kall, NASA 202–358–0459, RKall@Proc.hq.nasa.gov;
Charles Paoletti, ONR, 703–696–4606, paoletc@onrhq.onr.navy.mil;
Dan Shackelford, U.S. Army Medical Research and Materiel Command, 301–619–7216, Dan__Shackelford@ftdetrick-ccmail.army.mil;
John Showman, EPA, 202–260–6580, showman.john@epamail.epa.gov;
Larry Travis, Army Research Office, 919–549–4310, Travis@ARO.emh1.army.mil;
Jean Morrow, DOE, 301–903–2452, jeanmorrow@mailgw.er.doe.gov

SUPPLEMENTARY INFORMATION:

Background

In April, 1986 NSF, NIH, ONR, DOE and USDA joined with the Florida State University System and the University of Miami in a demonstration of a standard and simplified research support instrument. This Florida Demonstration Project was developed by federal officials with the encouragement of the Government-University-Industry Research Roundtable (GUIRR) of the National Academy of Sciences. This Demonstration tested the use of a number of expanded authorities for grants administration by research performing organizations. Demonstrations focused on such things as eliminating most requirements for federal prior approval of certain expenditures so long as pertinent grantee administrative systems were adequate and effective and allowing grantees the authority to: a) incur pre-award costs up to 90 days before the effective date of a grant, b) extend the period of the grant for up to one year with no additional funds, and c) carry forward balances from one budget period to the next. Based on the results of Phase I, OMB authorized expansion of the Demonstration in May, 1988.

FDP Phase II began in September, 1988 with 21 educational institutions or consortia and 10 federal agencies. Initially, seven task groups comprised of representatives from participating institutions and federal agencies were formed and charged with developing models for administrative reform in a

variety of areas. A uniform set of policies and procedures for administration of research grants, a simplified continuation application process and elimination of equipment screening were some of FDP Phase II successes. In addition, during Phase II FDP responded to an OMB request to prepare a report on the possibility and practicality of direct charging facility costs to grants. FDP Phase II was recognized in the National Performance Review as the model for testing more efficient ways for federal agencies to interact with grantee institutions.

Purpose of Scope

The purpose of this solicitation is to provide a mechanism to expand the scope of and broaden the participation in the current Federal Demonstration Project. The primary focus of this new phase of the FDP will be to serve as the central test bed for demonstration of reengineered processes and systems for federal support of research and education. Emphasis will be placed on electronic research administration and demonstrations that provide administrative relief for faculty researchers. Primary goals continue to be increased productivity, increased stewardship, and decreased administrative burden.

Organization of Phase III and Phase III Activities

The primary forum within the FDP Phase III for interaction among all the participants will continue to be the Committee of the Whole. Each non-federal member institution or organization will designate a minimum of two representatives (one administrator and one investigator) to the Committee of the Whole. Similarly, each federal agency participating in the FDP Phase III will designate two representatives (policy/administrative/business and program manager). Additional institutional/agency representatives may attend and participate in meetings as observers, as may representatives from affiliate membership groups. The Committee of the Whole will meet at least once a year.

In addition to the Committee of the Whole, a Steering Committee will meet at least three times a year. The Steering Committee will receive and approve recommendations for new demonstrations, progress and evaluation reports on demonstrations and pilots, and approve the conveying of recommendations to the Office of Science and Technology Policy. The Steering Committee will also be responsible for establishing task forces and assigning their membership, developing position papers, reviewing and approving additional affiliate membership requests and membership terminations, and undertaking other activities consistent with FDP objectives. All member federal agencies will be represented on the Steering Committee. Depending on the number of non-federal members, participation may include one representative from each institution or a representative group of institutional representatives whose membership would rotate, offering each institution membership on the Steering Committee for a set period.

An Executive Committee, consisting of two institutional Steering Committee members, two federal agency representatives, a GUIRR representative, and a senior federal science official will meet on an as needed basis and will be empowered to take necessary actions on behalf of the Committee of the Whole and/or Steering Committee. It will also develop meeting agendas, monitor task force progress, identify opportunities for new demonstrations, and act as liaison for the FDP with other groups and individuals. The Steering Committee will appoint members to the Executive Committee annually except for the senior federal science official who will be selected from, and named by, the Research Roundtable Council and will have an indefinite term of service.

The GUIRR of the National Academy complex will continue to function as a neutral convenor for the FDP, and will provide the executive secretariat. It will continue to facilitate meetings and discussions of the Committee of the Whole and Steering Committee, and the contributions of the FDP to federal policy-making.

The federal agency working group will continue to be comprised of representatives of the federal agency Steering Committee members. The group will convene periodically to form a consensus about proposed demonstrations and pilots they are willing to test, as well as new or revised FDP terms and conditions.

The Office of Science and Technology Policy (OSTP) will be the focal point within the federal government to receive, review and implement as appropriate recommendations emanating from FDP activities.

Eligibility

This solicitation is open to all institutions and organizations other than state and local governments that undertake research or educational activities supported with federal funds through a grant or cooperative agreement mechanism, provided such organizations have received at least $1,000,000 of such federal support over the past two years. Existing FDP member institutions and organizations who have maintained active participation in the current Phase II of the FDP will be admitted to Phase III upon execution of a memorandum of agreement (see below) by an appropriate senior official of the organization. Consortia of federal research or education performing institutions or organizations are not eligible to participate in Phase III of the FDP, with the exception of central system offices of statewide university systems and non-profit foundations that serve as legal agents for otherwise eligible institutions (e.g. university research foundations). In such cases participation of individual member institutions in the FDP is strongly encouraged. Existing member institutions of FDP Phase II consortia will be admitted to Phase III upon execution of the memorandum of agreement.

The selection of organizations for Phase III of the FDP is intended to be broadly representative of the federal research and education performing community, including large and small public and private colleges and universities (including predominantly undergraduate institutions and HBCUs), non-profit research and education organizations (including science museums), hospitals, and profit-making organizations. every effort will be made to ensure broad representation by type, size, extent of federal support, geographic location and other characteristics. However, no commitment is made to select either a minimum number of organizations or to ensure representation by organization type or other characteristics.

Expressions of interest in affiliate membership status by groups such as professional associations of researchers, educators or research and education administrators, scientific societies, and other such groups are encouraged. While such groups are not eligible for full FDP membership, their representatives may attend FDP meetings as observers and otherwise participate as appropriate in FDP activities. Affiliate membership status for smaller institutions or organizations unable to commit to the conditions for full FDP participation (see below) also will be considered.

Participation Conditions

As a condition for participation in Phase III, the selected organizations will be required to agree to the following conditions:

1. Establishment and maintenance of management and administrative

procedures and systems that comply with the standards and requirements of the federal government for administering federal awards for research and education (including lack of material weaknesses in internal control structures as confirmed by applicable audit requirements and substantial compliance with federal policies and regulations pertaining to grant administration, such as timely technical, invention and financial reporting).

2. Agreement to actively participate in the FDP, including regular attendance, at institutional expense, of FDP committee and task force meetings, and participation in new or ongoing FDP demonstrations and pilots. Failure to attend two or more consecutive regularly-scheduled FDP committee meetings will be grounds for termination of membership.

3. Commitment to continued efforts to reengineer and streamline internal processes while enhancing the stewardship of federal support and to provide a report to the FDP membership at least every two years on these efforts.

4. Execution of a memorandum of agreement confirming the above, and setting forth certain additional understandings and requirements (copy of draft agreement will be furnished on request and may also be accessed electronically via the NSF Home Page on the World-Wide Web). Federal agencies currently participating in the FDP have agreed that agency grants and cooperative agreements to FDP member institutions and organizations (excluding affiliate members) will be governed by the ''FDP Terms and Conditions'' (unless otherwise required). During Phase III they are expected to use the FDP as the primary focus for tests and demonstrations of reengineered processes and systems for the support of research and education. Additional federal agencies may be admitted to the FDP upon agreement to these conditions.

What To Submit

Proposing organizations must submit ten (10) copies of a brief proposal (not to exceed 5 pages). The proposal must be signed by a senior official authorized to commit the organization in such matters (in the case of educational institutions Provost level or higher). It must cover the following:

1. Description of existing and planned efforts by the proposing institution/organization to reengineer and improve the effectiveness of systems for administration of federal support.

2. Description of possible Phase III demonstration and pilot projects including significance of the administrative problem or burden to be addressed, suggested methods/approaches, ways to assess the impact on productivity, and expected benefits.

3. Identification of primary institutional/organizational representatives including their background and qualifications. One of the outcomes of Phase II is a recognition of the need for greater participation in FDP activities by principal investigators and project directors of Federally supported research and education activities. Therefore proposing organizations should identify both administrative and principal investigator/project director representatives and indicate their commitment to participate in FDP activities. (It is expected that each FDP Phase III member organization will designate two representatives).

4. Indication of the proposing organization's top management commitment to reengineer administrative processes and systems, and willingness and commitment to fully participate in FDP activities.

This section also should include a brief summary of the organization's characteristics: type of institution/organization, size, Federal R&D/education funding for fiscal years 1994 and 1995, by year and funding agency, etc.

Selection Criteria

1. Evaluation and assessment of existing reengineering activities of the organization in the area of administrative processes and systems and organizational commitment to same.

2. Significance of proposed demonstrations and pilot projects and the extent to which suggested methods and approaches clearly show potential to achieve the results sought.

3. Commitment of individuals proposed as lead organizational representatives and their experience and leadership in improving administration of federal support.

4. Evidence of organizational and top management commitment to full participation in Phase III. In additional to the above, equally weighted criteria, consideration will be given to achieving an appropriate representation of organizations, including organization type, size, extent of federal support, geographic location, etc.

Evaluation of Proposals and Selection Process

Evaluation of proposals will be carried out by the Standing FDP Committee on Membership, which is comprised of federal agency officials, representatives of current FDP member institutions, and GUIRR representatives. The Membership Committee will make the final selection in consultation with the Executive Committee of the FDP.

Proposal Submission and Deadlines

Ten copies of the organization's proposal must be received by C.O.B. March 20, 1996 at the Government—University—Industry Research Roundtable, National Academy of Sciences, National Academy of Engineering, Institute of Medicine, 2101 Constitution Avenue NW., Washington, DC 20410. Attention: FDP

Selection and Schedule

Evaluation and selection of organizations will be completed about May 1, 1996. Project organization and execution of Phase III agreements will be completed about June 15, 1996.

Dated: February 2, 1996.

Robert B. Hardy,

Director, Division of Contracts, Policy and Oversight.

[FR Doc. 96–2642 Filed 2–7–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment. The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for collection of information under the provision of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 20, Proposed Rule, Reporting Requirements for Unauthorized Use of Licensed Radioactive Material.

3. The form number if applicable: Not applicable.

4. How often is the collection required: As the events occur.

5. Who will be required or asked to report: All NRC licensees.

6. An estimate of the number of responses: 19,800.

7. The estimated number of annual respondents: 20 per year.

8. An estimate of the number of hours needed annually to complete the requirement or request: 400 hours for the 20 licensees that may be affected by this proposed rule or 20 hours per licensee.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: The Nuclear Regulatory Commission (NRC) is proposing to require reporting of events that cause, or have the potential to cause, an exposure of individuals whether or not the exposure exceeds the regulatory limits. This proposed rule would add a new requirement for licensees to notify the NRC Operations Center within 24 hours after finding any event of intentional or allegedly intentional deviation of licensed radioactive material from its intended or authorized use. In addition, the proposed rule would add a new requirement for licensees to notify the NRC when they are unable, within 48 hours of discovery of the event, to rule out that the use was intentional.

Submit by April 8, 1996, comments that address the following question:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC 20555–0001. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advances Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672), or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Comments and questions should be directed to the OMB reviewer by March 11, 1996: Troy Hillier, Office of Information and Regulatory Affairs, (3150–0014), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2700 Filed 2–7–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–498 AND 50–499]

Houston Lighting and Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–76 and NPF–80, issued to Houston Lighting & Power Company, et. al., (the licensee) for operation of the South Texas Project, located in Matagorda County, Texas. The original application dated May 1, 1995, was previously published in the Federal Register on June 6, 1995 (60 FR 29876). That application was supplemented by letters dated June 22, August 28, November 22, December 19, 1995, January 4, January 8 (two letters), and January 23, 1996.

The proposed amendment would provide a special test exception that would allow an extension of the standby diesel generator (SDG) allowed outage time for a cumulative 21 days on each SDG once per fuel cycle, and it would also allow an extension of the essential cooling water (ECW) loop allowed outage time for a cumulative 7 days on each ECW loop once per fuel cycle. These extended allowed outage times will be used to perform required inspections and maintenance on the SDGs and the ECW system during power operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Standby Diesel Generators are not accident initiators, therefore the increase in Allowed Outage Times for this system does not increase the probability of an accident previously evaluated. The three train design of the South Texas Project ensures that even during the seven days the Essential Cooling Water loop is inoperable there are still two complete trains available to mitigate the consequences of any accident. If the Essential Cooling Water loop is not inoperable during the 21 days the Standby Diesel Generator is inoperable, the Standby Diesel Generator's Engineered Safety Features bus and equipment in the train will be operable. This ensures that all three redundant safety trains of the South Texas Project design are operable. In addition the Emergency Transformer will be available to supply the Engineered Safety Features bus normally supplied by the inoperable Standby Diesel Generator. These actions will ensure that the changes do not involve a significant increase in the consequences of previously evaluated accidents.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes affect only the magnitude of the Standby Diesel Generator and Essential Cooling Water Allowed Outage Times once per fuel cycle as identified by the marked-up Technical Specification. As indicated above, the proposed change does not involve the alteration of any equipment nor does it allow modes of operation beyond those currently allowed. Therefore, implementation of these proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes result in no significant increase in core damage or large early release frequencies.

Three sets of PSA [probabilistic safety assessment] results have been presented to the NRC for the South Texas Project. One submitted in 1989 from the initial Level 1

PSA of internal and external events with a mean annual average CDF [core damage frequency] estimate of $1.7 \times 10(-4)$, a second one submitted in 1992 to meet the IPE requirements from the Level 2 PSA/IPE with a CDF estimate of $4.4 \times 10(-5)$, and an update of the PSA that was reported in the August 1993 Technical Specifications submittal with a variety of CDF estimates for different assumptions regarding the rolling maintenance profile and different combinations of modified Technical Specifications. The South Texas Project PSA was updated in March of 1995 to include the NRC approved Risk-Based Technical Specifications, Plant Specific Data and incorporate the Emergency Transformer into the model. This update resulted in a CDF estimate of $2.07 \times 10(-5)$. When the requested changes are modeled along with the compensatory actions, the resulting CDF estimate is $2.30 \times 10(-5)$. While this is slightly higher (approx. 11%) than the updated results, it is still significantly lower (approx. 46%) than the previous Risk-Based Evaluation of Technical Specification submitted in 1993. Therefore, it is concluded that there is no significant reduction in the margin of safety.

Based on the above evaluation, Houston Lighting & Power has concluded that these changes do not involve any significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 11, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the

Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner, Director, Project Directorate IV–1: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 1, 1995, as supplemented by letters dated June 22, August 28, November 22, December 19, 1995, January 4, January 8 (two letters), and January 23, 1996, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 2nd day of February 1996.

For the Nuclear Regulatory Commission.

George Kalman,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2701 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36799; File No. SR–DTC–94–16]

Self-Regulatory Organizations; The Depository Trust Co.; Order Approving a Proposed Rule Change Clarifying the Depository Trust Company's Policy on Depository-to-Depository Services and Fees

February 1, 1996.

On November 29, 1994, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–94–16) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on January 9, 1995.[2] One comment letter was received.[3] On October 11, 1995, DTC filed an amendment to clarify the filing.[4] Because the amendment changed the substance of the filing, notice of the amended proposal was published in the Federal Register on November 1, 1995.[5] One comment letter was received in response to the notice of the amended proposal after the expiration of the comment period.[6] For the reasons discussed below, the Commission is approving the proposed rule change as amended.

I. Description of the Proposal

The purpose of the proposed rule change is to clarify DTC's policy regarding depository-to-depository services and fees by filing the following statement:

With respect to any other securities depository that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (a ''depository''), neither DTC nor the other depository shall be obligated to pay each other the fees charged to participants by virtue of having executed participant agreements with one another. DTC shall provide services to the other depository, charge fees for those services, and pay for the services provided to DTC, all in accordance with the terms of a separate agreement, if any, between DTC and the other depository respecting such matters.

In the absence of any such separate agreement, however:

1. DTC shall make available to any other depository any service that DTC makes available to its Participants generally, provided that such depository makes its services available to DTC on the same basis.

2. DTC (i) shall not charge for the book-entry delivery services provided to the other depository nor pay for the book-entry delivery services provided by the other depository, (ii) shall charge DTC participant fees for services relating to the physical handling of certificates rendered by DTC to such depository and pay the other depository its participant fees for services relating to the physical handling of certificates rendered to DTC and (iii) shall charge the other depository and pay the other depository for ''linked services'' provided, if any.[7]

DTC states that this policy statement reflects the practices that have been followed by DTC and the other depositories since the beginning of interdepository processing and is consistent with the Commission's expressed views concerning these matters.

II. Comments

One comment letter was received in response to the original notice of proposed rule change.[8] DTC

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35186 (December 30, 1994), 60 FR 2418.

[3] Letter from J. Craig Long, Foley and Lardner (on behalf of the Midwest Securities Trust Company), to Jonathan G. Katz, Secretary, Commission (February 3, 1995). The comment letter is discussed in Section II of this order.

[4] Letter from Richard B. Nesson, Executive Vice President and General Counsel, DTC, to Jerry W. Carpenter, Esq., Assistant Director, Division of Market Regulation, Commission (October 11, 1995).

[5] Securities Exchange Act Release No. 36425 (October 26, 1995), 60 FR 55623.

[6] Letter from William W. Uchimoto, First Vice President and General Counsel, Philadelphia Depository Trust Company (''Philadep''), to Jonathan G. Katz, Secretary, Commission (November 30, 1995). The comment letter is discussed in Section II of this order.

[7] The Commission has described ''linked services'' as arrangements where one depository (the ''servicing depository'') performs for another depository (the ''using depository'') the core tasks necessary to deliver the services to the using depository's participants. The Commission has cited as examples of linked services DTC's processing of ID confirmations and affirmations and DTC's fourth-party delivery service. The Commission has expressed the view that a servicing depository should be permitted to charge a using depository the same fee it charges its participants for the same or a similar service. *See* Securities Exchange Act Release No. 23083 (March 31, 1986) at pages 15–23.

[8] *Supra* note 3. The first commenter, also a registered securities depository, submitted a comment letter only in response to DTC's original filing and stated that DTC's filing was an attempt to have the commenter adopt a no-charge policy for rendering most services to DTC in connection with the operation of the interface between the depositories. The commenter also focused on this filing's relationship to another pending DTC filing regarding interface fees. The commenter urged the

Continued

subsequently amended the filing. The Commission received one comment letter in response to the amended notice after the expiration of the comment period.[9]

The second commenter stated its belief that the policy statement is unnecessary because it impacts exclusively upon DTC's relationship with the commenter, also a registered securities depository. Other than DTC, the commenter will be the only other actively operating registered securities depository providing depository services for equity, corporate, and municipal securities.[10] The Commission believes DTC's policy statement is a general statement of DTC's intention to establish depository-to-depository services and fees with any depository, existing now or in the future, and is not intended to target DTC's relationship with this commenter.

This commenter also stated its concern that approval of DTC's policy statement would interrupt or diminish services to the commenter. The Commission does not believe that by approving DTC's current practice as an official policy the policy statement should cause an interruption or diminishment of services to the commenter or any other depositories. The Commission also does not believe the policy statement will prohibit or limit access to services offered by any registered securities depository or participants. The Commission believes the policy statement should help encourage the depositories to work together to achieve a reciprocal and mutually beneficial relationship. The policy statement proposes to provide assurance that in the absence of an agreement between depositories all services provided by DTC to another depository will be reciprocated by the other depository on the same basis. The Commission believes this should help assure that depository-to-depository services are available on a similar basis to participants of any depository.

III. Discussion

Section 17A(b)(3)(F)[11] requires that a clearing agency's rules be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposal is consistent with section 17A(b)(3)(F) of the Act because it will clarify DTC's current practices and policies regarding depository-to-depository services and fees and thus should help create a structure for establishing such interdepository agreements with other registered securities depositories. This structure should help facilitate cooperation and coordination among persons engaged in the clearance and settlement of securities transactions by ensuring that absent an agreement depository interface services will be available to participants of any depository and associated fees will be charged among depositories on a reciprocal basis.

The Commission also believes that the policy statement should help remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions by setting forth a structure for the charging of depository-to-depository fees in the absence of an agreement between depositories. This should help prevent one depository from charging another depository inappropriately high fees or from charging higher per-unit fees than such depository charges its participants generally.

The Commission recognizes that the benefits of a national clearance and settlement system can be realized only if there is cooperation and coordination among competing registered securities depositories and that in some instances Commission review of the application of the policy statement will be necessary. To this end, if DTC and another registered securities depository do not enter into a separate agreement regarding depository-to-depository services and fees and DTC unilaterally decides to invoke the terms of the policy statement, DTC must notify the Commission in writing of its decision prior to invoking the terms of the policy statement. The Commission will assess whether the policy statement is being implemented consistently with the terms and goals of section 17A of the Act.

IV. Conclusion

The Commission finds that the proposal is consistent with the requirements of the Act and particularly with section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–94–16) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2675 Filed 2–7–96; 8:45 am]

BILLING CODE 8010–01–M

Commission to review the two filings as one proposal; however, the filing regarding interface fees has since been withdrawn by DTC. Securities Exchange Act Release No. 36372 (October 16, 1995), 60 FR 54273 (File No. SR–DTC–94–10) (notice of withdrawal of a proposed rule change regarding the establishment of a fee schedule for certain inter-depository deliveries).

The first commenter recently withdrew from the securities depository business but remains a registered securities depository. Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195 (order approving a proposed rule change relating to a decision by Chicago Stock Exchange, Incorporated to withdraw from the clearance and settlement, securities depository, and branch receives businesses).

[9] *Supra* note 6.

[10] Although MSTC recently withdrew from the securities depository business, it remains a registered securities depository for equity, corporate, and municipal securities. *Supra* note 8.

The Participants Trust Company (''PTC''), which is temporarily registered as a clearing agency and which provides depository facilities for mortgage-backed securities, possibly could be effected by the policy statement. For a description of PTC, refer to Securities Exchange Act Release No. 35482 (March 13, 1995), 60 FR 14806 [File No. 600–25] (notice of filing and order approving application for extension of temporary registration until March 31, 1996).

[11] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[12] 17 CFR 200.30–3(a)(12) (1995).

SMALL BUSINESS ADMINISTRATION

Delegation of Authority No. 1–A; Revision 21

Delegation of Authority

Delegation of Authority No. 1–A (Revision 20) is revised to read as follows:

(a) Pursuant to authority vested in me by the Small Business Act of 1958, 72 Stat. 384, as amended, authority is delegated to the following officials in the following order:

1. Deputy Administrator
2. General Counsel
3. Chief of Staff
4. Associate Deputy Administrator for Management and Administration
5. Associate Deputy Administrator for Economic Development
6. Counselor to the Administrator
7. Associate Administrator for Field Operations

to perform, in the event of my absence or incapacity, any and all acts which the Administrator is authorized to perform (including, but not limited to, authority to issue, modify, or revoke delegations of authority and regulations), except for the exercise of authority under section 9(d) and 11 of the Small Business Act, as amended.

(b) An individual acting in any of the positions in paragraph (a) remains in the

line of succession only if he or she has been designated acting by the Administrator or Acting Administrator due to a vacancy in the position.

(c) This delegation is not in derogation of any authority residing in the above-listed officials relating to the operations of their respective programs, nor does it affect the validity of any delegations currently in force and effect and not revoked or revised herein.

Dated: January 30, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–2703 Filed 2–7–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2329]

United States International Telecommunications Advisory Committee (ITAC), Standardization Sector (ITAC–T) Study Group A; Meeting

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Telecommunications Standardization Sector (ITAC–T) Study Group A will meet February 28, 1996, 9:30 a.m.–4:00 p.m., at the Department of State, Room 1205, 2201 C Street NW., Washington, DC.

The agenda will deal primarily with final preparations for the upcoming ITU–T Study Group 3 Geneva meeting, March 11–20, 1996; a debrief of the January 1996 ITU–T Study Group 2 meeting in San Francisco; a debrief of the one and one half days preparatory meeting of Study Group A's ad hoc group on Numbering held in Washington February 12 and 13; and continuing preparations for the May meeting of ITU–T Study Group 2.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. Questions regarding the meeting may be addressed to Mr. Earl Barbely at 202–647–0197. If you wish to attend please send a fax to 202–647–7047 not later than 5 days before the scheduled meetings.

Please include your name, Social Security number and date of birth. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: February 5, 1996.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunication Standardization.

[FR Doc. 96–2738 Filed 2–7–96; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 2325]

United States International Telecommunications Advisory Committee (ITAC) Study Group D; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Study Group D will meet on Wednesday, February 28, 1996 at 9:00 a.m., Room 1205 of the Department of State.

The Agenda will include a review of the results of the ITU–T Study Group 8 meeting (Feb 1996). Consideration of contributions to upcoming meetings of ITU–T Study Group 14 in March, 1996 and the ITU–T Study Group 7 meeting, in April of 1996 will also be considered on the agenda of this meeting. Other matters within the purview of Study Group D may be raised at the meeting. Persons presenting contributions to the meeting of Study Group D should bring 20 copies to the meeting.

Members of the General Public may attend the meeting and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. If you wish to attend please send a fax to 202–647–7407 not later than 5 days before the scheduled meeting. Please include your name, Social Security number and date of birth. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: January 29, 1996.

Gary M. Fereno,

Chairman, U.S. ITAC for Study Group D.

[FR Doc. 96–2645 Filed 2–7–96; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 2324]

Ad Hoc '98 Plenipotentiary Committee of the United States International Telecommunications Advisory Committee (ITAC); Meeting Notice

The Department of State announces that a meeting of the Ad Hoc '98 Plenipotentiary Committee under the United States International Advisory Committee (ITAC) will be held Wednesday, February 28, 1996, at 9:30 a.m. to 11:30 a.m., in room 1105, 2201 C Street, NW., Washington, DC 20520. The meeting is a part of the planning effort leading to the International Telecommunication Union's 1998 Plenipotentiary Conference to be held in Minneapolis, Minnesota.

The agenda of this meeting will include: (1) A presentation and discussion of the organizational structure for planning the Plenipotentiary Conference; (2) decisions regarding specific planning committees, their membership and leadership; (3) a report by Washington based private sector representatives on their planning activities; (4) a report on activities in Minneapolis.

Members of the general public may attend the meeting and join in the discussions, subject to the instructions of the chair and seating availability. In this regard, entry to the building is controlled. If you wish to attend, please call 202–647–5205 or send a fax to 202–647–5957 not later than 5 days before the scheduled meeting. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, or U.S. Government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: January 30, 1996.

Richard C. Beaird,

Chairman, Ad Hoc '98 Plenipotentiary Committee.

[FR Doc. 96–2646 Filed 2–7–96; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 21.25–X, Issuance of Type Certificate: Restricted Category Agriculture Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of Proposed Advisory Circular (AC) 21.25–X, and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed advisory circular (AC) which provides information and guidance for obtaining a type certificate in the restricted category, under 14 CFR part 21, § 21.25, for small piston and turbo-propeller driven airplanes, which will be used for agricultural special purpose operations. The AC provides an acceptable means, but not the only means, of meeting the requirements of part 21 for the issuance of a type certificate in the restricted category. This procedure incorporates the appropriate normal category airworthiness standards of 14 CFR part 23, Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes. This material is neither mandatory nor regulatory in nature and does not constitute a regulation. Because the information and guidance presented in this AC is not mandatory, the term ''must'' used in this AC only applies to an applicant who chooses to follow these procedures. The applicant may elect to follow an alternate procedure provided the Administrator finds it to be acceptable.

DATES: Comments must be received on or before April 8, 1996.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Standards Office, ACE–100, Small Airplane Directorate, Aircraft Certificate Service, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Terre Flynn, Regulations and Policy Branch, ACE–111, at the address above, telephone number (816) 426–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

Comments Invited

Interested parties are invited to submit such written data, views, or arguments as they may desire. Commenters must identify the AC and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the Standards Staff before issuing the final AC. Comments may be inspected at the Standards Office, ACE–110, Suite 900, 1201 Walnut, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

The current philosophy concerning type certification of restricted category agricultural airplanes is historically based on part 8 of the Civil Air Regulations (CAR). Under this part, the applicant for a new aircraft was required to show compliance with all of the airworthiness requirements of any other aircraft category prescribed by the CAR, except those requirements which the Administrator found inappropriate for the special purpose for which the aircraft was to be used. This part also established new standards for the issuance of type certificates, alterations to type certificates, and type certification procedures. The preamble for part 8 stated that for such restricted operations where public safety is not endangered it appears unreasonable to require the same level of safety as that required for passenger carrying aircraft. The intent of part 8 was to place the minimum possible burden consistent with public safety on the applicant for a type certificate in the restricted category. Since the inception of part 8 of the CAR and following recodification of the CAR into the CFR, the Federal Aviation Administration (FAA) has continued using the basic concepts of that part. On February 8, 1965, the FAA issued AC 20–33. This AC notified the public that policy information contained in Civil Aeronautics Manuals (CAM) 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 10, 13, and 14 could be used in conjunction with specific sections of the CFR, which correspond with the sections of the CAR to which the policies were applicable. Approximately 10 years later, in March 1975, AC 20–33A temporarily deleted the reference to CAM 8 in AC 20–33 from being applied to any sections of the FAR. However, in two months time, AC 20–33B reinstated CAM 8 for use with part 21, § 21.25, for small restricted category agricultural airplanes. This policy continued until July 1981 when FAA Order 8130.2, Airworthiness Certification of Aircraft and Related Approvals, eliminated CAM 8 from being used for certificating new restricted category agricultural airplanes.

In October of 1992 two manufacturers of small restricted category agricultural airplanes petitioned the FAA to develop a new set of certification requirements strictly for agricultural airplanes. In February of 1993 representatives from the FAA's Small Airplane Directorate met with a representative for the Agricultural Airplane Manufacturers who had petitioned the FAA to discuss the certification problems that had developed between the Agricultural Airplane Manufacturers and the FAA. At this meeting a draft AC that had been developed by the Small Airplane Directorate to solve the certification problem was presented to the Agricultural Airplane Manufacturer's representative. It was mutually agreed upon between the two parties that the development of an AC that addressed the certification of new restricted category agricultural airplanes would be the quickest way of resolving the issues that had developed between the FAA and the Agricultural Airplane Manufacturers. After several months of discussion between both parties, it was agreed that the most efficient way for the FAA to revise the draft AC was to form a team of engineers and pilots. This team would then visit agricultural operators and pilots out in the field and interview them to determine what their needs were for newly certificated agricultural airplanes. The Agricultural Airplane Certification Team that was formed visited many agricultural operators and pilots across the south from Georgia to Texas. The team finished performing these interviews in the summer of 1994 and met in the fall of 1994 to review their experiences and revise the existing draft AC. In January of 1995 the team met with representatives of the Agricultural Airplane Manufacturers, at the Small Airplane Directorate's Office, to discuss the revised AC and portions of its policy. The AC that has been developed is a product of the combined efforts of the FAA's Agricultural Airplane Certification Team and representatives of the Agricultural Airplane Manufacturers.

Issued in Kansas City, Missouri, on January 31, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2632 Filed 2–7–96; 8:45 am]

BILLING CODE 4810–13–M

Federal Railroad Administration

[FRA Waiver Petition Docket No. PB–95–3; Notice No. 2]

Petition for Waivers of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Change of hearing date.

SUMMARY: On November 30, 1995, FRA published in the Federal Register a notice that the FRA received from the American Railway Car Institute (ARCI) a request for waiver of compliance with certain requirements of the Railroad Power Brakes and Drawbars Regulations.

The ARCI seeks a permanent waiver of compliance from section 232.2 of the Railroad Power Brakes and Drawbars Standards (49 CFR Part 232). That section states in part: ''The maximum height of drawbars for freight cars—shall be 34½ inches, and the minimum height of drawbars for freight cars on such standard-gauge railroads—shall be 31½ inches,—ARCI is requesting to Increase the maximum allowable coupler height one inch from 34.5 inches to 35.5 inches for bottom shelf E couplers and top and bottom shelf E couplers only. ARCI states that the granting of this waiver will allow railroads and car builders to build safer and more efficient cars. It claims industry's need for safer suspension systems is being hampered by the small range of allowable coupler heights. Railroads, truck manufacturers, and freight car manufacturers know that rail worthiness of many cars would be improved if spring travel could be increased. For example, cars negotiating changes in super-elevation as they enter and exit curves would be subject to less wheel unloading if they had softer, more complaint, longer travel suspensions. Wheel unloading is most undesirable in curves, as the wheel set is often developing high lateral forces. High lateral forces combined with wheel unloading can result in derailment. The small range of allowable coupler heights severely limits the use of longer travel springs. By increasing the allowable range of coupler height by one inch would allow designers to make a significant improvements in rail worthiness.

FRA has determined that a public hearing will be held in this matter. Due to extreme weather conditions which closed Federal buildings in Washington, DC., FRA was unable to hold the public hearing scheduled for January 10, 1996. As a consequence, FRA is rescheduling the public hearing to 10:00 a.m. on February 28, 1996. The hearing location remains the same and will be held in room 8236–8238 of the Nassif Building, DOT Headquarters Building, 400 Seventh Street, SW., Washington, DC. We apologize for any inconvenience this rescheduling may cause.

The hearing will be informal and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR Part 211.25), by a representative designated by the FRA. The hearing will be a nonadversary proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number PB–95–3 and must be submitted in triplicate to the Docket Clark, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on February 1, 1996.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 96–2740 Filed 2–7–96; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 3115, Application for Change in Accounting Method.

DATES: Written comments should be received on or before April 8, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, T:FP, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, T:FP, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Change in Accounting Method.

OMB Number: 1545–0152.

Form Number: 3115.

Abstract: Form 3115 is used by taxpayers who wish to change their method of computing their taxable income. The form is used by the IRS to determine if electing taxpayers have met the requirements and are able to change to the method requested.

Current Actions: Form 3115 is revised to encourage the submission of detailed and complete information from applicants. Many of the questions have been reorganized by category to simplify preparation. Some of the general questions have been clarified and a number of questions in the various schedules have been eliminated or combined.

Type of Review: Revision of a currently approved form.

Affected Public: Individuals, corporations, cooperatives, qualified personal service corporations, exempt organizations, partnerships, S corporations, and insurance companies.

Estimated Number of Respondents: 6,400.

Estimated Time Per Respondent: 42 hrs., 16 min.

Estimated Total Annual Burden Hours: 270,490.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 31, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–2656 Filed 2–7–96; 8:45 am]

BILLING CODE 4830–01–U

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Utah Lake Wetland Preserve; Notice of Availability

AGENCY: Utah Reclamation Mitigation and Conservation Commission.

ACTION: Notice of Availability.

SUMMARY: The Draft Environmental Assessment (EA) for Establishment of the Utah Lake Wetland Preserve is available for review. The EA addresses the establishment of a preserve through acquisition from willing sellers of private land, water rights, or other property interests occurring in a specific area along the southern shore of Utah Lake, Utah County, Utah. This establishment would entail limited management to restore and protect

natural resource values on acquired properties. Major wetland developments and other large-scale management activities are not part of this action.

DATES: Comments will be accepted until March 25, 1996.

ADDRESSES: Interested persons or organizations may request copies of the document and should submit comments to Utah Lake Draft EA, Utah Reclamation Mitigation and Conservation Commission, 111 E. Broadway, Suite 310, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Catherine Quinn, Telephone (801) 524–3146; Fax (801) 524–3148.

Authority: Pub. L. 102–575, 106 Stat. 4600, 4625, October 30, 1992.

Michael C. Weland,

Executive Director.

[FR Doc. 96–2653 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

Medical Care Reimbursement Rates for FY 96

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In accordance with provisions of OMB Circular A–11 section 12.5(a), revised reimbursement rates have been established by the Department of Veterans Affairs for inpatient and outpatient medical care furnished to beneficiaries of other Federal agencies during FY 1996. These rates will be charged for such medical care provided at health care facilities under the direct jurisdiction of the Secretary on and after December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Walter J. Besecker, Director, Medical Care Cost Recovery Office (174), Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 219–4242.

SUPPLEMENTARY INFORMATION: The Interagency Billing Rates for FY 1996 are as follows:

Medicine	$873
Surgery	1,436
Spinal Cord Injury	768
Neurology	761
Blind Rehabilitation	774
Psychiatry	409
Intermediate Medicine	302
Rehabilitation Medicine	640
Substance Abuse	264
Nursing Home	238
Prescription—Refill	19
Outpatient*	188
Emergency Dental Outpatient	92

*Rate includes Dialysis treatment.

Prescription refill charges in lieu of the outpatient visit rate will be charged when the patient receives no service other than the Pharmacy outpatient service. These charges apply if the patient receives the prescription refills in person or by mail.

When medical services for beneficiaries of other Federal agencies are obtained by the Department of Veterans Affairs from private sources, the charges to the other Federal agencies will be the actual amounts paid by the Department of Veterans Affairs for such medical services.

Inpatient charges to other Federal agencies will be at the current Interagency per diem rate for the type of bed section or discrete treatment unit providing the care.

Dated: January 29, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 96–2672 Filed 2–7–96; 8:45 am]

BILLING CODE 8320–01–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m. (EST), February 20, 1996.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 16, 1996, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Labor Department audit briefing.
4. Investment policy review.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs (202) 942–1640.

Dated: February 5, 1996.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 96–2880 Filed 2–6–96; 8:45 am]

BILLING CODE 6760–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 13, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Wednesday, February 14, at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Title 26 Certification Matters
Advisory Opinion 1996–2: Stephen M. Heaton of CompuServe, Inc.
Advisory Opinion 1996–3: Irwin Gostin of the Breeden-Schmidt Foundation
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 96–2930 Filed 2–6–96; 3:53 pm]

BILLING CODE 6715–01–M

Corrections

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. 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

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Services

Farm Service Agency

7 CFR Part 1944

RIN 0575-AB93

Processing Requests for Section 515 Rural Rental Housing Loans

Correction

In Proposed Rule document 96–328 beginning on page 1153 in the issue of Wednesday, January 17, 1996 make the following corrections:

(1) On 1153, in the first column:

(a) The subagency ''Rural Housing Service and Community Development'' should read as set forth above.

(b) Under **DATES**, in the third line ''March 8, 1996'' should read ''March 18, 1996''.

§1944.231 [Corrected]

On page 1158, in §1944.231(d)(5), in the first column, in the table, under ''Percentage of households'' and ''Points'' the final entries should read respectively ''Less than 5'' and ''0''.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5404-1]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

Correction

In notice document 96–1400 beginning on page 2824 in the issue of Monday, January 29, 1996 make the follwing correction:

On page 2825, in the first column, under **DATES**, in the second line replace ''[date]'' with ''February 28, 1996''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–055–06–1430–01; CAAZCA 35669 and CAAZCA 35712]

Notice of Realty Action; Imperial County, California

Correction

In notice document 96–1185 appearing on page 2260 in the issue of Thursday, January 25, 1996, make the following correction:

In the third column, under **EFFECTIVE DATE:**, in the sixth line, insert ''effective'' after ''become''.

BILLING CODE 1505–01–D

Federal Register

Thursday
February 8, 1996

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 189

Tin-Coated Lead Foil Capsules for Wine Bottles; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 189

[Docket No. 91N–0326]

RIN 0910–AA06

Tin-Coated Lead Foil Capsules for Wine Bottles

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to prohibit the use of tin-coated lead foil capsules (i.e., coverings for the cork and neck area) on wine bottles. Lead in these capsules may, as a result of their intended use, become a component of the wine. FDA is taking this action to reduce exposure to lead to the extent feasible.

DATES: Effective February 8, 1996. Wine is adulterated under the Federal Food, Drug, and Cosmetic Act (the act) if a tin-coated lead foil capsule is applied to the wine bottle on or after February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4681.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of November 25, 1992 (57 FR 55485), FDA published a proposed rule to prohibit the use of tin-coated lead foil capsules on wine bottles (hereinafter referred to as the 1992 proposal). The 1992 proposal was based on evidence from studies on bottled wine capped with tin-coated lead foil capsules that showed that the lead in the foil becomes a component of food. No food additive regulation exists for this use of tin-coated lead foil, nor is there a prior sanction for this use. Moreover, this use of tin-coated lead foil is not generally recognized as safe (GRAS). Therefore, FDA tentatively found that tin-coated lead foil capsules used on wine bottles are an unsafe food additive under section 409 of the act (21 U.S.C. 348), and wine is adulterated under section 402 (a)(2)(C) of the act (21 U.S.C. 342(a)(2)(C)), if a tin-coated lead foil capsule is applied to the wine bottle on or after February 8, 1996. Given the longstanding use of tin-coated lead foil capsules as a packaging material for wine, the agency proposed to prohibit use of this capsule by regulation to make its regulatory status clear. FDA proposed to make any final rule that issued based upon the 1992 proposal effective on its date of publication.

II. Summary of and Response to Comments

A. Summary of Comments

The agency received 16 comments in response to the 1992 proposal. Thirteen comments were from domestic and imported wine merchants, associations representing domestic winemakers, and a foreign national trade association representing exporters of wine. In addition, one comment was received from an international trade commission, and two were received from foreign governments.

All comments supported the proposal in principle. However, some comments sought clarification of what the proposal was intended to prohibit. Some comments raised issues concerning other types of capsules that may contain lead used on wine bottles. Some comments raised concerns about regulatory action by individual States concerning capsules used on wine bottles.

The majority of the comments reacted favorably to the proposed effective date, but two comments expressed the need for further clarification on this issue.

One comment asserted that the wine industry is being charged with an extraordinary share of the lead-reduction burden.

B. Responses to Comments

1. Several comments stated that the 1992 proposal did not clearly identify the specific type of capsule that FDA proposed to prohibit. One comment requested that the 1992 proposal be amended to provide a clearer definition of what is prohibited. The comment also stated that if the prohibition is to be based on the amount of lead that is present in the capsule, then fairness requires that reasonable notice be given of the precise requirement of the final rule before it becomes effective. Another comment stated that since some traces of lead may appear in alternative types of capsules, the final rule should be written in such a way that no ambiguity is possible concerning the amount of lead that the capsule may contain.

These comments apparently derive in large measure from the fact that the State of California has acted to prohibit the use of capsules that contain more than 0.3 percent lead. These comments are responding to the 1992 proposal's lack of a quantitative level of lead in a capsule that would subject it to prohibition, inasmuch as the State's action included such a level.

In response to these comments, FDA emphasizes that the intent of the 1992 proposal was not to set a maximum permissible level of lead in a capsule. The intent was to prohibit the use of tin-coated lead foil capsules as a covering for the cork and neck areas of wine bottles. In the preamble to the 1992 proposed rule, FDA defined ''tin-coated lead foil capsules'' as ''capsules composed of lead foil coated on both sides with a thin layer of tin.'' This identification is not ambiguous. It clearly differentiates between tin-coated lead foil capsules, in which lead is intentionally used, and other types of capsules known to be used in the bottling of wine (e.g., all tin capsules) that may unavoidably contain some lead as an impurity.

Nonetheless, given the concerns expressed by the comments, to eliminate the possibility of any ambiguity in the final regulation, the agency is modifying proposed § 189.301(a) to incorporate the definition of ''tin-coated lead foil'' as it appeared in the preamble of the 1992 proposal.

2. Several comments requested that the agency define ''all tin-capsules'' (an alternative to tin-coated lead foil capsules) to include the amount of lead that may be present in the capsule as an unintended impurity.

As stated above, this final rule is a prohibition of, and applies exclusively to, tin-coated lead foil capsules.

It is not FDA's intent in this rulemaking to address the regulatory status of any other type of capsule (e.g., tin, aluminum, or plastic). However, FDA recognizes that it is conceivable that materials, both metallic and nonmetallic, used in other types of capsules could become components of wine, thus subjecting these capsules to the provisions of the act. FDA provides the following guidance in response to the comments that sought an opinion on the status of various types of capsules that may be used in the bottling of wine.

If a substance, such as tin or aluminum, has a history of use as a capsule for wine bottles predating January 1, 1958, and the substance could become a component of food as a result of its intended use, the use may be GRAS based on common use in food or food contact. The criteria for determining whether the use is GRAS are described in § 170.30(c) (21 CFR 170.30(c)). Any substance whose use in capsules for wine bottles began after January 1, 1958, would either have to be GRAS for such use on the basis of scientific procedures described in

§ 170.30(b) or would be required to be used in accordance with a food additive regulation that prescribes safe conditions of use. In either case, the substance must be of a purity suitable for its intended use.

FDA is aware that the occurrence of some amount of lead in tin is unavoidable because lead is a naturally occurring impurity in tin ore. Manufacturers are expected to take steps to control this source of exposure to lead by securing raw materials of the highest purity practicable.

3. Several comments expressed concern that the States have or may enact inconsistent and conflicting laws that restrict the amount of lead that may be present in ''all-tin capsules.'' Therefore, the comments requested that FDA establish a national definition of ''all-tin capsules'' based on the California definition [1] to eliminate inconsistencies and conflicts, to level the playing field among States, and to protect imported wine from State-imposed nontariff trade barriers.

The agency understands that some comments may wish to have a preemptive Federal regulation defining ''all-tin capsules.'' However, this final rule is a prohibition of, and applies exclusively to, tin-coated lead foil capsules as defined by this agency.

It appears that the comments contemplate that some States may promulgate regulations that are different from, or more restrictive, than the ''California definition'' of ''all-tin capsules.'' The agency recognizes that if individual States establish variable limits on the lead content of capsule materials, burdens on interstate commerce can result. However, the potential for such action by individual States, and the question of what would be an appropriate course of action by the Federal government in such a case, is outside the scope of this rulemaking. The prohibition of tin-coated lead foil capsules is absolute. More restrictive action by the States with respect to such capsules is not possible. As for other materials used to make wine capsules, interested persons may wish to petition the agency to establish limits on lead in such materials that have preemptive effect. Agency action on such petitions would be based on the merits of the petition and the availability of agency resources.

4. One comment stated that it is unfair for FDA, and for other agencies of the United States, to place excessive responsibility on the wine industry to achieve lead reduction in food and not require similar efforts from other industries.

FDA disagrees with the comment's allegation that the agency is imposing excessive responsibility on the wine industry to achieve lead reduction. The prohibition on the use of tin-coated lead foil capsules is only one of the actions that the agency has taken to implement its policy to reduce exposure to lead in food to the maximum extent practicable. Other actions include a recently published final rule formally banning lead-soldered food cans (60 FR 33106, June 27, 1995), a final rule lowering the allowable level of lead in bottled water (59 FR 26933, May 25, 1994), the lowering of action guidelines for leachable lead from ceramicware (57 FR 29734, July 6, 1992), and a final rule requiring a warning label on decorative ceramicware, which could be mistakenly used to hold food, in order to exempt it from the action guidelines for leachable lead (59 FR 1638, January 12, 1994). FDA is also considering action to reduce the specifications for lead in food and color additives and in GRAS ingredients, as described in an advance notice of proposed rulemaking that was published in 1994 (59 FR 5363, February 4, 1994).

5. Several foreign comments sought assurance that wines capped with tin-coated lead foil capsules before January 1, 1993, will be permitted to enter the United States, and that marketing of wines capped with tin-coated lead foil capsules and imported before January 1, 1993, will be permitted.

FDA's 1992 proposal specifically stated that the prohibition on the use of tin-lead foil capsules is applicable to products capped after the effective date of this final rule. Thus, this prohibition will not be retroactively applied to any product capped before February 8, 1996, nor is any action required to recall and retrofit any product capped before that date. Consequently, European wines capped before the European Commission (EC) ban of January 1, 1993, will not be prohibited from being imported into the United States or marketed in the United States by this rule.

In the 1992 proposal, FDA proposed that the effective date of this final rule be the date that it is published in the Federal Register. In the 1992 proposal, the agency stated that information that it had already received indicated that the industry anticipated the availability of adequate supplies of alternative capsules by no later than November 1992. The industry desired that the prohibition of the use of tin-coated capsules not precede the availability of adequate supplies of alternative capsules. No comments indicating that the industry would not be able to comply with the effective date were received.

III. Conclusions

After review and consideration of the comments received in response to the 1992 proposal, FDA concludes that no evidence or information has been presented that would cause the agency not to adopt § 189.301, which prohibits the capping of bottled wine with ''tin-coated lead foil capsules.''

Therefore, FDA is amending 21 CFR part 189 as proposed with the exception that the agency has modified § 189.301 to include the definition of ''Tin-coated lead foil capsules'' as discussed in comment 1 of this document and made minor editorial changes.

IV. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (57 FR 55485, November 25, 1992). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

V. Economic Impact

FDA has examined the impacts of this final rule to prohibit the use of tin-coated lead foil capsules for wine bottles as required by Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. FDA finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

[1] The ''California definition'' refers to a definition agreed to by the State of California and several wine producers and importers in a December 6, 1991, consent decree *(People of the State of California* v. *Gallo Vineyards, Inc. et al.*, No. 640951, San Diego County Superior Court). This decree states in part that ''lead foil'' or ''tin-lead foil'' capsules are ''* * * any foil capsules * * * containing lead as an intended constituent at concentrations greater than .3% by dry weight.''

On November 25, 1992, FDA published an analysis of the economic impacts of the proposed requirements under the previous Executive Order (Executive Order 12291). In that analysis the agency stated that banning the use of tin-lead capsules for wine bottles would require the wine industry to use other materials for capsules, such as polyvinylchloride (PVC), aluminum, or tin. The cost estimates reported in this regulation did not include costs to the wine industry in California because California State law already prohibited the use of these capsules in wine bottles.

The impact of the proposed regulation was expected to be an increase in the cost of capsule material and bottling equipment to the portion of the industry that still used tin-lead capsules. At the time of publication of the proposal it was assumed that the most likely alternative to tin-lead foil capsules to be used was tin capsules at a total cost to the industry of $4.5 million annually.

A. Costs

Since the publication of the 1992 proposal to ban tin-lead foil capsules, several new alternatives have emerged and existing ones have been improved through better quality, lower prices, or both. According to a recent trade publication, there are four basic capsules that may be used, which are listed in the chart below (Ref. 1).

PVC (polyvinylchloride)	$40 per 1,000 capsules
Polylam (aluminum/plastic laminate)	$60 per 1,000 capsules
Aluminum	$85 per 1,000 capsules
Tin	$90 per 1,000 capsules

It is assumed in this analysis that only imported wines still continue to use tin-lead foil capsules, not including those imported from the European Union (EU). Approximately 15 percent of wines consumed in the United States are imported and 5 percent of all wines are from countries other than the EU. Thus, if all such wines used tin-lead foil capsules, 8.6 million bottles of imported wine would be expected to be converted away from tin-lead foil capsules as a result of this final rule. Since tin-lead foil capsules cost the same as polylam capsules, only those wineries who choose tin or aluminum will incur additional costs. Assuming that all conversions will be evenly distributed between the four options above, costs of using different capsules are expected to be approximately $90,000 per year.

B. Benefits

Benefits of this regulation will be realized in reduced exposure to lead by children and pregnant women (fetuses), groups that are particularly sensitive to exposure to lead. Adverse health effects of lead exposure in these population groups occur at lower blood lead levels than in adults. Exposure to very low levels of lead can adversely affect the production of the iron-containing component of hemoglobin in children and can cause neurobehavioral and growth deficits at prenatal (maternal) stages. The agency has previously stated that for infants and children, the lowest observed effect level of lead in blood is 10 micrograms per deciliter (µg/dL) (57 FR 55485 at 55487, November 25, 1992).

The following table shows estimates of the current blood lead incidence levels in the two population groups predicted to exceed 10 µg/dL (Ref. 2).

TABLE 1.—BACKGROUND INCIDENCE OF BLOOD LEAD LEVELS >10 µG/DL

Population Group	Estimated Incidence
Children, age 2 years	10%
Women of child-bearing age	1%

1. Benefit Estimation for Children Ages 3 through 6

Using the estimates in Table 1 and assuming that the same incidence levels apply for children ages 3 through 6 as for 2-year olds, then approximately 1.4 million children between the ages of 3 and 6 have blood lead levels greater than 10 µg/dL.

Wine consumption data were obtained from the United States Department of Agriculture (USDA) Nationwide Consumption Survey. This survey provided the percentage of children who consumed wine at least once in a 3-day period and the daily consumption distribution (in grams (g)) for each group. Approximately 0.12 percent of the children ages 3 through 6 in this survey, or 1,680 children (1.4 million x 0.0012 = 1,680), consumed wine once in 3 days. The average daily consumption of wine for children ages 3 through 6 is 51 g/day per child.

Assuming that children who consume imported wine do so in the same proportion as national consumption (e.g., 5 percent of the total wine consumed is imported from non-EU countries), then an estimated 84 children (5 percent of 1,680) may be at risk.

The capsule contribution of lead from imported wine is, on average, 6 µg lead (Pb)/day (120 parts per billion (ppb)). By using an absorption rate factor of 0.16 for children, the blood lead level increase attributable to the consumption of imported wine by these children is estimated to be 1 µg Pb/dL (Ref. 3).

To assess monetary benefits from reducing this lead intake, this analysis uses a study by the Centers for Disease Control (CDC) that looked at the effect of lead reduction on the lifetime earnings of consumers. The CDC study used three ''pathways'' with associated parameter estimates to measure the change in lifetime earnings that would result from a change in 1 µg Pb/dL blood. Each pathway included an estimate of a quarter of an intelligence quotient (IQ) point decrease for each 1 µg Pb/dL of blood increase.

The CDC study measured the impacts of a change in blood lead on IQ through changes in wages, educational attainment, and labor force participation rates. Because each of these effects are highly correlated (wages, education, and labor force participation), FDA will conservatively use only the strongest effect, education. FDA used a similar

approach in the economic impact analysis of the proposed rule to ban lead soldered food cans (58 FR 33860, June 21, 1993). For this factor, it is estimated that an increment of 1 µg Pb/dL blood decreases lifetime earning levels by approximately 0.2 percent.

Starting from an average expected lifetime earnings rate of $260,000, the decrease in the net present value of lifetime earnings from a 1 µg/dL change in blood lead levels will be $512 (.00197 x 260,000). For the 84 children estimated to be at risk, the lower bound annual benefit of reducing blood lead levels by 1 µg Pb/dL from domestic wine consumption is estimated to be $43,000 (512 per child). It should be noted that the amount may be understated to the extent that this estimate, a human capital approach, does not represent utility from a higher IQ in nonlabor activities which would be included in a willingness-to-pay estimate.

The above calculations are also considered to be lower bound, as they only estimate benefits for children with blood lead levels above 10 µg/dL. Using the same wine consumption levels as above (51 g/day), but allowing for effects (linear) below 10 µg Pb/dL blood, the annual benefit of reducing blood lead levels by 1 µg/dL would be $4.6 million.

Assuming that half the problem is solved each year, over the next 20 years total discounted benefits may range between $81,000 and $5.7 million.

2. Benefit Estimation for Fetuses

There are approximately 58 million women between the ages of childbearing age (15 to 44 years). Each year, approximately 3 million (6 percent) are pregnant at any given time. Using the incidence estimates in Table 1 (1 percent of 3 million), 30,000 of these women (pregnancies) are estimated to have blood lead levels above 10 µg/dL.

Dietary exposure to lead (from tin-lead foil capsules) for pregnant women has been evaluated in a manner similar to that used for children. The USDA food consumption survey (1977–1978) reported average wine intake per day for individuals who drank wine on 1, 2, and 3 days over a 3-day period. It also provided the wine consumption data for women of different age groups, including those of childbearing age (15 to 44 years). After eliminating the tin-lead capsules in wine bottles, the lead levels in imported wine would be reduced by an average of 120 ppb. A 120 ppb reduction is equivalent to 120 µg/kilogram of wine. Thus, if a pregnant woman consumes 100 g of wine per day, the lead intake from wine will be reduced by 12 µg Pb/day. Using the maternal (adult) absorption rate of 0.04, the blood lead level in the fetus would be reduced by 0.50 µg Pb/dL blood (Ref. 3).

The figures in the following table were derived from the USDA food consumption survey data utilizing data on lead levels in imported wine attributable to the use of tin-lead foil capsules and the maternal absorption rate factor just noted. Blood lead level reductions for each group of wine consumers are the result of eliminating the capsule's lead contribution.

TABLE 2.—BLOOD LEAD LEVEL REDUCTIONS AFTER ELIMINATING TIN-LEAD CAPSULES
(PREGNANT WOMEN WHO CONSUME WINE AND ARE AT RISK OF REACHING BLOOD LEAD LEVELS OVER 10 µG/DL)

Age females	Number of wine consumers	Number of imported wine consumers[1]	Blood Pb level reduction (µg/dL blood)
Drink once in 3 days			
15–18	37	1.8	0.29
19–34	1,542	77	0.37
35–44	74	3.7	
Drink two of 3 days			
15–18	3	1.4	0.37
19–34	411	20	0.70
35–44	28	1.4	0.54
Drink all 3 days			
15–18	0	0	0
19–34	179	8.9	1.34
35–44	26	1.3	0.94
TOTAL	2,300	115[2]	

[1] Excludes consumers of wine imported from the EC.
[2] Pregnancies resulted in live births only.

Assuming 115 fetuses have their blood lead levels reduced by the amounts shown in Table 2 above, the increase in the value of lifetime earnings is estimated to be $16,000.

Again, assuming the relationship between IQ and income is linear benefits are estimated for all fetuses with nonzero blood lead levels. The annual upper bound benefit in terms of an increase in the value of lifetime earnings is estimated to be $1.6 million.

Thus, the benefit of reducing maternal blood lead levels ranges from $16,000 to $1.6 million.

Assuming half of the lead problem is solved each year, the total discounted benefits (at 6 percent) to pregnant women (fetuses) is estimated to be $30,000 to $3 million.

C. Summary

For this analysis, FDA has assumed that only imported wines still continue to use tin-lead foil capsules, excluding those imported from the EU. Costs of conversion are expected to be approximately $90,000 annually. Total discounted costs (6 percent) are estimated to be $1.2 million.

Assuming that, (1) the population growth rate in the United States continues to be near the replacement rate, and (2) half of the lead problem is reduced each year, the reduction of blood lead levels due to ingestion of wine is expected to result in discounted benefits ranging from $97,000 to $8.7 million.

VI. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

1. Walker, L., ''What's Next in the Wine Capsule Department?,'' *Wine & Vines*, 74(3):20(3), March 1993.

2. Carrington, C., P. M. Bolger, and R. J. Scheupleia, ''Risk Analysis of Dietary Lead Exposure,'' in press.

3. FDA memorandum, ''Provisional Tolerable Exposure Levels for Lead,'' Clark D. Carrington, Division of Toxicological Review and Evaluation, to Elizabeth Campbell, Division of Regulatory Guidance, November 16, 1990.

List of Subjects in 21 CFR Part 189

Food ingredients, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act, as amended, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 189 is amended as follows:

PART 189—SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD

1. The authority citation for 21 CFR part 189 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. New § 189.301 is added to subpart C to read as follows:

§ 189.301 Tin-coated lead foil capsules for wine bottles.

(a) Tin-coated lead foil is composed of a lead foil coated on one or both sides with a thin layer of tin. Tin-coated lead foil has been used as a capsule (i.e., as a covering applied over the cork and neck areas) on wine bottles to prevent insect infestation, as a barrier to oxygen, and for decorative purposes. Information received by the Food and Drug Administration establishes that the use of such a capsule on wine bottles may reasonably be expected to result in lead becoming a component of the wine.

(b) The capping of any bottles of wine after February 8, 1996, with a tin-coated lead foil capsule renders the wine adulterated and in violation of section 402(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act because lead from the capsule, which is an unsafe food additive within the meaning of section 409 of the act, may reasonably be expected to become a component of the wine.

Dated: January 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–2665 Filed 2–7–96; 8:45 am]

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February 8, 1996

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 331

Antacid Drug Products for Over-the-Counter Human Use; Amendment of Antacid Monograph; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 331

[Docket No. 88N–0327]

RIN 0905–AA06

Antacid Drug Products for Over-the-Counter Human Use; Amendment of Antacid Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule that amends the monograph for over-the-counter (OTC) antacid drug products by deleting parts of the testing procedures in subpart C. This final rule is part of the ongoing review of OTC drug products conducted by FDA. Also, this final rule is part of the Administration's ''Reinventing Government'' initiative which seeks to streamline government and to ease the burden on regulated industry and consumers.

EFFECTIVE DATE: February 10, 1997.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2304.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of June 4, 1974 (39 FR 19862), FDA issued a final monograph for OTC antacid drug products (21 CFR part 331) that included procedures for testing antacid drug products. An acid neutralizing capacity test is described in § 331.26. When the final monograph was issued in 1974, the United States Pharmacopeia (USP) did not include an acid neutralizing capacity test. However, in 1980 an acid neutralizing capacity test was included in the USP (Ref. 1). That test is substantially the same as the test found in the final monograph for OTC antacid drug products. Several revisions in the USP acid neutralizing capacity test have been made since 1980 to increase the accuracy and utility of the test. The current USP 23/National Formulary (N.F.) 18 acid neutralizing capacity test (Ref. 2) differs from the agency's antacid monograph testing procedures, which have not been revised.

The FDA recommended disintegration test method (in § 331.24) and the methods in current USP 23/N.F. 18 monographs for antacid tablets also have some differences. Current USP 23/N.F. 18 procedures include tests for powder and suspension dosage forms and for products having an acid neutralizing capacity greater than 25 milliequivalents (meq) of acid, as well as a more detailed sample preparation procedure for capsule dosage forms.

In the Federal Register of September 23, 1993 (58 FR 49826), the agency issued a notice of proposed rulemaking to amend the final monograph for OTC antacid drug products to delete parts of the testing procedures in subpart C, as discussed above in this document. The agency discussed the differences between its antacid monograph standards and those in the USP. The agency mentioned that it could amend its antacid monograph to be consistent with the USP, but opted to delete portions of its monograph testing procedures and refer to the USP procedures for determination of the antacid product's acid neutralizing capacity in place thereof. The agency noted that USP procedures do not include a ''preliminary antacid test'' (as contained in § 331.25 of the antacid monograph) or a procedure for the ''determination of percent contribution of active ingredients'' in a combination antacid drug product (as contained in § 331.21 of the antacid monograph). The agency does not consider the ''preliminary antacid test'' as essential to the determination of a product's acid neutralizing capacity. However, manufacturers may elect to continue to use this test as a preliminary screening procedure. The agency stated that it was retaining § 331.21 (''*determination of percent contribution of active ingredients*'') in the monograph (redesignated as § 331.20) so that a procedure will be available for making that determination. No comments were received in response to the agency's proposed changes in the antacid monograph.

References

(1) ''United States Pharmacopeia XX—National Formulary XV,'' United States Pharmacopeial Convention, Inc., Rockville, MD, p. 912, 1980.

(2) ''United States Pharmacopeia 23—National Formulary 18,'' United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 54–55 and 1791–1793, 1994.

II. The Agency's Final Conclusions on the Amendment to the Monograph for OTC Antacid Drug Products

In the proposal, the agency referred to the acid neutralizing capacity test procedures in USP XXII/N.F. XVII. Since the proposal was published, USP 23/N.F. 18 became official on January 1, 1995. The test procedures in both editions of the USP are the same. Therefore, the agency is referencing USP 23/N.F. 18 in this final rule.

The agency is removing the following sections from ''Subpart C—Testing Procedures'' in ''Part 331—Antacid Products for Over-the-Counter (OTC) Human Use'': §§ 331.20, 331.22, 331.23, 331.24, 331.25, and 331.26. The agency is redesignating § 331.21 as § 331.20 and amending it to refer to the USP 23/N.F. 18 test procedure in place of § 331.26, which is being removed. The agency is retaining § 331.29 (''*test modifications*'') in case there is a need for any manufacturer to petition for a test modification, is redesignating this section as § 331.21, and is amending it to reference the USP 23/N.F. 18 test procedure. The agency is also amending §§ 331.10(a) and 331.80(a)(1) to refer to USP 23/N.F. 18.

III. Analysis of Impacts

An analysis of the cost and benefits of this regulation, conducted under Executive Order 12291, was discussed in the proposed rule (58 FR 49826 at 49827). No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking. Executive Order 12291 has been superseded by Executive Order 12866.

FDA has examined the impacts of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and, thus, is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Manufacturers of OTC antacid drug products should not be affected by the deletion of certain testing procedures that have already been incorporated into the USP/N.F. Accordingly, the agency certifies that the final rule will not have a significant economic impact on a substantial

number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) 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 331

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 331 is amended as follows:

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

1. The authority citation for 21 CFR part 331 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 331.10 is amended by revising paragraph (a) to read as follows:

§ 331.10 Antacid active ingredients.

(a) The active antacid ingredients of the product consist of one or more of the ingredients permitted in § 331.11 within any maximum daily dosage limit established, each ingredient is included at a level that contributes at least 25 percent of the total acid neutralizing capacity of the product, and the finished product contains at least 5 meq of acid neutralizing capacity as measured by the procedure provided in the United States Pharmacopeia 23/National Formulary 18. The method established in § 331.20 shall be used to determine the percent contribution of each antacid active ingredient.

* * * * *

§ 331.20 [Removed]

3. Section 331.20 *Apparatus and reagents* is removed from subpart C.

§ 331.21 [Redesignated as § 331.20]

4. Section 331.21 is redesignated as § 331.20 and revised to read as follows:

§ 331.20 Determination of percent contribution of active ingredients.

To determine the percent contribution of an antacid active ingredient, place an accurately weighed amount of the antacid active ingredient equal to the amount present in a unit dose of the product into a 250-milliliter (mL) beaker. If wetting is desired, add not more than 5 mL of alcohol (neutralized to an apparent pH of 3.5), and mix to wet the sample thoroughly. Add 70 mL of water, and mix on a magnetic stirrer at 300±30 r.p.m. for 1 minute. Analyze the acid neutralizing capacity of the sample according to the procedure provided in the United States Pharmacopeia 23/National Formulary 18 and calculate the percent contribution of the antacid active ingredient in the total product as follows:

Percent contribution = (Total meq. Antacid Active Ingredient x100)/(Total meq. Antacid Product).

§ 331.22 [Removed]

5. Section 331.22 *Reagent standardization* is removed.

§ 331.23 [Removed]

6. Section 331.23 *Temperature standardization* is removed.

§ 331.24 [Removed]

7. Section 331.24 *Tablet disintegration test* is removed.

§ 331.25 [Removed]

8. Section 331.25 *Preliminary antacid test* is removed.

§ 331.26 [Removed]

9. Section 331.26 *Acid neutralizing capacity test* is removed.

§ 331.29 [Redesignated as § 331.21]

10. Section 331.29 is redesignated as § 331.21 and revised to read as follows:

§ 331.21 Test modifications.

The formulation or mode of administration of certain products may require a modification of the United States Pharmacopeia 23/National Formulary 18 acid neutralizing capacity test. Any proposed modification and the data to support it shall be submitted as a petition under the rules established in § 10.30 of this chapter. All information submitted will be subject to the disclosure rules in part 20 of this chapter.

11. Section 331.80 is amended by revising paragraph (a)(1) to read as follows:

§ 331.80 Professional labeling.

(a) * * *

(1) Shall contain the neutralizing capacity of the product as calculated using the procedure set forth in United States Pharmacopeia 23/National Formulary 18 expressed in terms of the dosage recommended per minimum time interval or, if the labeling recommends more than one dosage, in terms of the minimum dosage recommended per minimum time interval.

* * * * *

Dated: January 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

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Part IV

Department of Commerce

International Trade Administration

19 CFR Part 351, et al.

Antidumping and Countervailing Duty Proceedings: Procedures for Imposing Sanctions for Violation of a Protective Order; Proposed Rule

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Parts 351, 353, 354, and 355

[Docket No. 960123011–6011–01]

RIN 0625–AA43

Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Department of Commerce (''the Department'') proposes to amend its regulations on administrative protective order (''APO'') procedures in antidumping and countervailing duty proceedings to simplify and streamline the APO administrative process and reduce the administrative burdens on the Department and trade practitioners. The Department also proposes to amend the regulations to simplify the procedures for investigating alleged violations of APOs and the imposition of sanctions. These changes are proposed in response to and in cooperation with the trade practitioners that are subject to these rules.

DATES: Written comments will be due March 11, 1996.

ADDRESSES: Address written comments (three copies) to Stephen J. Powell, Chief Counsel for Import Administration, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Comments should be addressed: Attention: Proposed Regulations/APO Procedures & APO Sanctions. Each person submitting a comment is requested to include his or her name and address, and the reasons for any recommendation.

FOR FURTHER INFORMATION CONTACT: Joan L. MacKenzie, Senior Attorney, Office of the Chief Counsel for Import Administration, (202) 482–1310.

SUPPLEMENTARY INFORMATION:

General Background

APO Procedures

Since the enactment of the Trade Agreements Act of 1979, the APO has been an important procedure in U.S. antidumping (''AD'') and countervailing duty (''CVD'') proceedings. By providing representatives of parties to antidumping and countervailing duty proceedings access to business proprietary information submitted to the Department by other parties, the APO has helped to make the U.S. system the most transparent in the world.

In administering its APO procedures, the Department balances two principal objectives. On the one hand, the Department has sought to ensure that information is disclosed under APO in a timely manner to permit parties to defend adequately their interests. At the same time, the Department must ensure that its procedures protect against unauthorized disclosure of business proprietary information.

Our procedures for the protection of business proprietary information were last revised in 1989. After five years experience with these procedures, and after consultation with the practitioners affected by these procedures, we determined it was time to revise the procedures.

The Department began a dialogue on APO procedures with AD/CVD practitioners, who are the ones most directly affected by these procedures. Specifically, Department staff consulted with representatives of the International Law Section of the District of Columbia Bar, the International Trade Committee of the Section of International Law and Practice of the American Bar Association, the ITC Trial Lawyers Association, and the Customs and International Trade Bar Association. The purpose of these consultations was to explore ways in which the APO process could be simplified and streamlined for all concerned, including the Department, while at the same time providing protection of business proprietary information.

Based on these discussions, the Department published Notice and Request for Comment on Proposed Changes to Administrative Protective Order (APO) Procedures in Antidumping and Countervailing Duty Proceedings, APO Application Form and APO, 59 FR 51559 (October 12, 1994) (''October Notice''). In this notice, the Department set forth its initial reform ideas regarding APO procedures, and requested further comments from the public on its ideas. In addition, the Department requested comments on APO procedures, as well as on other matters, in its Advance Notice of Proposed Rulemaking and Request for Comments (Antidumping Duties; Countervailing Duties; Article 1904 of the North American Free Trade Agreement), 60 FR 80 (Jan. 3, 1995) (''Advance Notice'').

The Department received comments in response to both the October Notice and the Advance Notice. After analyzing these comments, the Department has drafted regulations that streamline the APO process significantly and, at the same time, protect business proprietary information from unauthorized disclosure. However, as part of the ongoing dialogue with the private sector on this subject, the Department is requesting public comment on these regulations. As with the October Notice, we are also publishing for comment the APO.

APO Sanctions

The Department also proposes to amend its regulations concerning sanctions for violations of APOs. The regulations governing the imposition of sanctions for APO violations are set forth at 19 CFR part 354. In the six years since part 354 was introduced, the Department has investigated and resolved numerous allegations of violations of APOs. Most charges have been settled, and none has resulted in a hearing before a presiding official or a decision by the APO Sanctions Board. Experience also has proven that, even if an individual has technically violated the terms of an APO, it is not always appropriate to impose a sanction. Rather, a warning may be appropriate in many instances. The Department also has found that situations arise in which the investigation can be shortened without limiting procedural rights. Additionally, under current regulations, it is unduly cumbersome to withdraw charges when the Department determines that they are not warranted. Finally, the Department recognizes that an individual with prior violations deserves to have his or her record cleared after a period of time without further violations. Therefore, the Department is proposing to amend part 354 of its regulations to articulate a standard for issuance of a warning of an APO violation and to address the other situations described above.

The Department proposes to amend the regulations to simplify the procedures for investigating alleged violations and the imposition of sanctions, establish criteria for abbreviating the investigation of an alleged violation, include private letters of reprimand among the sanctions available, and set a policy for determining when the Department issues warnings instead of sanctions. Further, the Department proposes to revise the provisions dealing with settlement to make them consistent with practice. The Department also proposed to simplify the procedures for withdrawing charging letters. Finally, the proposed amendment adds a sunset provision that codifies existing practice

regarding the rescission of charging letters.

The outstanding issues concerning these regulations are described in the following analysis of the relevant sections of the proposed regulations.

Explanation of Particular Provisions

APO Procedures

The Department's AD regulations are contained in 19 CFR part 353, and its CVD regulations are contained in 19 CFR part 355. Parts 353 and 355 each contain separate provisions dealing with the treatment of business proprietary information and APO procedures. As part of a separate rulemaking, the Department intends to consolidate the AD and CVD regulations and repeal existing parts 353 and 355. We have drafted the regulations dealing with APO procedures in light of this planned consolidation. Accordingly, these regulations will be contained in 19 CFR part 351, subpart C. More specifically, with the exception of definitional provisions, the relevant regulations will be contained in 19 CFR 351.304, 305, and 306.

Definitions

Section 351.102 will be a definitional section, based on existing 19 CFR 353.2 and 355.2. It will be published separately with the proposed rules for 19 CFR part 351, subpart C. Insofar as APO procedures are concerned, two new terms will be defined, now contained in the administrative protective order.

The first term, ''applicant,'' is defined as an individual representative of an interested party that has applied for access to business proprietary information under an APO. The second term, ''authorized applicant,'' is defined as an applicant that the Secretary has authorized to receive business proprietary information under an APO, and is a term borrowed from the practice of the U.S. International Trade Commission (''ITC'').

Section 351.304 Establishing Business Proprietary Treatment of Information

Section 351.304 sets forth rules concerning the treatment of business proprietary information in general. Paragraph (a) is a general provision, paragraph (a)(1) of which provides persons with the right to request (i) that certain information be considered business proprietary; and (ii) that certain business proprietary information be exempt from disclosure under APO. Consistent with section 777(c)(1)(A) of the Tariff Act of 1930 (''the Act''), paragraph (a)(2) provides that, as a general matter, the Secretary will require that all business proprietary information be disclosed to authorized applicants, with the exception of (i) customer names in an investigation, (ii) information for which the Secretary finds there is a clear and compelling need to withhold from disclosure, and (iii) classified or privileged information.

Paragraph (b) of § 351.304 addresses the identification of business proprietary information in submissions to the Department. Paragraph (b)(1) deals with the bracketing and labeling of business proprietary information in general, and is consistent with existing practice. Paragraph (b)(1) also retains the requirements under existing practice that: (i) A person claiming business proprietary status for information must explain why the information in question is entitled to that status; and (ii) a request for business proprietary treatment must include an agreement to permit disclosure under an APO, unless the submitter claims that there is a clear and compelling need to withhold the information from disclosure under an APO. Paragraph (b)(2) is new, and provides for the double bracketing of business proprietary information that the submitting person claims should be exempt from disclosure under APO, and customer names submitted in an investigation.

Public Versions

Paragraph (c) of § 351.304 deals with the public version of a business proprietary submission. Paragraph (c)(1) follows existing practice by permitting parties to file a public version of a document containing business proprietary information one business day after the due date of the business proprietary version of the document. This practice is known as the ''one-day lag'' rule. Under current practice, submitting persons may correct the bracketing of information in the business proprietary version up to the deadline for submission of the public version (i.e., they have one day in which to correct bracketing). The Department has slightly modified the one-day lag rule to require a party to file the final business proprietary version of the document at the same time as the submitting party files the public version of the document. The specific filing requirements will be contained in § 351.303 of subpart C of the proposed regulations that the Department will publish separately. The purpose of this requirement is to ensure that the Department is reviewing the correct business proprietary version. Absent this requirement, Department analysts would have to engage in a page-by-page comparison of the original and corrected business proprietary versions, a time-consuming exercise which benefits neither the parties nor the Department.

Paragraph (c)(1) continues to permit a party to claim that summarization is not possible. However, the Secretary will vigorously enforce the requirement for public summaries, and will grant claims that summarization is impossible only in exceptional circumstances.

Nonconforming Submissions

Paragraph (d) of § 351.304 deals with nonconforming submissions, i.e., submissions that do not conform to the requirements of section 777(b) of the Act and paragraphs (a), (b), and (c) of § 351.304. Paragraph (d)(1) is generally consistent with existing 19 CFR 353.32(d) and 355.32(d), although it is more precise as to the options available to a submitting person when the Secretary returns a nonconforming submission. Paragraph (d)(2) is based on existing 19 CFR 353.32(e) and 355.32(e), and provides that the Secretary normally will determine the status of information within 30 days after the day on which the information was submitted, as provided by section 777(c)(1)(C).

Section 351.305 Access to Business Proprietary Information

Section 351.305 deals with procedures for obtaining business proprietary information under APO. These procedures are based on the ideas set forth in the October Notice, and reflect suggestions made in response to the Department's request for comments.

The Revised APO

Paragraph (a) of § 351.305 sets forth a new procedure based on the use of a single APO. Instead of issuing a separate APO to each applicant that requests disclosure, under paragraph (a) the Secretary will place a single APO on the record for each segment of an AD or CVD duty proceeding. The Secretary will place the APO on the record within one day after a petition is filed or an investigation is self-initiated, or one day after the initiation of any other segment. (''Segment of the proceeding'' will be defined in § 351.102 as a portion of the proceeding that is reviewable under section 516A of the Act.) All authorized applicants will be subject to the terms of this single APO. This new procedure, which mirrors the practice of the ITC and which is described in more detail in the October Notice, should streamline the APO process dramatically, and should expedite the issuance of APOs and the disclosure of information to authorized applicants.

Paragraph (a) also sets forth the requirements that are to be included in the single APO and to which all authorized applicants must adhere. In this regard, in response to the suggestions of practitioners, the Department proposed in its October Notice to eliminate from the APO detailed internal procedures that firms were required to follow to protect APO information from unauthorized disclosure. Instead, the Department proposed to permit each applicant to establish its own internal procedures. All commentators agreed with this proposal. Therefore, paragraph (a)(1) simply requires that the applicant establish and follow procedures to ensure that there is no unauthorized disclosure of APO information.

In its October Notice, the Department proposed to continue to place two restrictions on the use of business proprietary information contained in electronic form: (1) Such information could be resident on a computer only when the computer was being run; and (2) the information could not be accessible by a network or a modem.

The commentators differed as to whether it is appropriate to require different protection depending upon whether business proprietary information is entered into a computer for data manipulation purposes or for word-processing purposes. Four commentators opposed any specific restrictions, because they believe that there are sufficient technical protections available to protect such information from unauthorized disclosure. They asserted that attempts to prescribe specific, mandatory procedures are futile, because the handling of information on electronic media is subject to rapid technological change. Procedures may become outdated by the time they are established. On the other hand, four commentators asserted that although electronic information may be left resident in a computer subject to adequate safeguards, the Department should require that such information be used on a stand-alone computer to ensure that the information is not accessible by modem.

The Department recognizes the sensitivity of issues involving the handling of electronic information. Because there is no unanimity regarding the use of electronic information on computers that are accessible by modem, we continue to support restricting access of electronic information by modem. However, restricting access by modem does not necessarily require the physical separation of a computer and a modem. The use of technical restrictions, such as passwords or encryption, also would constitute an adequate method of protecting the information. Therefore, we are not proposing any specific technical restrictions, but instead are leaving the method to be used to the individual authorized applicant. Moreover, we are not limiting access to networks, because software is provided on many computer systems through the network. In summary, we have proposed procedures that, in our view, are sufficiently flexible so as to allow applicants to take advantage of technological advances as they occur, but that also ensure the protection of APO information.

On a different matter, five commentators suggested that the Department reconsider its requirement that support personnel be employees of the firm. They suggested that the Department permit the use of independent contractors to perform photocopying and other production tasks involving APO information, provided that: (1) The independent contractors perform their work on the premises of the authorized applicant (*e.g.,* at the firm); and (2) the independent contractors work under the supervision of an authorized applicant. The commentators stated that, for APO purposes, firms are able to exercise essentially the same oversight over subcontracted individuals as they are over their own employees.

The Department agrees that so long as support staff is operating on the premises of the authorized applicant, support staff could be either employees or independent subcontractors. In addition, the Department also will allow parties to use employees or subcontracted individuals (*e.g.,* courier services) to pick up APO information released by the Department. In order to guard against unauthorized disclosure, however, the Department will continue its current practice of releasing APO information only if the employee or subcontractor presents a picture ID and a letter of identification from the firm of the authorized applicant that authorizes the Department to release the APO information to that particular individual.

Also regarding support staff, one commentator suggested that instead of requiring support staff to sign the APO application and acknowledge the APO terms and conditions, the Department should leave this up to the authorized applicant as a matter of its internal procedures. The Department has not adopted this suggestion, because it would appear that the Department is permitting access to business proprietary information by staff that has not agreed to protect such information. Instead, we have retained the requirement in the APO that support personnel must agree to an acknowledgment of the APO terms and conditions.

Several commentators raised issues regarding the Department's current requirement that individual representatives of parties notify the Department when their status under an APO changes (*e.g.,* when they are reassigned to a different matter within a firm or leave the firm), and to certify that they have complied with the terms of the APO. Two firms commented that it is important for the Department to retain its current practice of requiring notification of any changed circumstances that may affect the participation of a representative under an APO. However, one firm requested that the Department either eliminate the requirement altogether or let the lead signatory for each firm make the necessary certification. This firm pointed out that individual certifications are not required by the U.S. Court of International Trade (''CIT'') with respect to a judicial protective order (''JPO'').

The Department has decided to retain the requirements in question. APO access is granted in response to individual requests for such access. The certification provided at the conclusion of a segment of the proceeding, upon the departure of an individual from a firm, or when an individual no longer will have access to APO information attests to the individual's compliance with the terms under which such access is granted. The Department and the persons whose business proprietary information is disclosed under APO have a legitimate need to be assured that individuals who have had access to that information have abided by the terms of the APO. Therefore, the regulations (specifically, § 351.305(a)(2)) continue to require notification and appropriate certification when changed circumstances affect the participation of a representative under an APO.

Although, as noted above, these regulations provide authorized applicants with greater flexibility regarding internal procedures, the Department proposed in its October Notice to maintain model guidelines on procedures that applicants could implement to protect APO information. Six commentators addressed this proposal. Two commentators stated that it would be useful for the Department to maintain guidelines and to hold training sessions for APO applicants. They cautioned, however, that such guidelines should represent suggestions

only, and that they should not be transformed into *de facto* requirements. Otherwise, the objective of simplifying the APO process would be defeated, and the Department once again would find itself in the position of micro-managing the internal procedures of applicants. The commentators requested that the Department clearly set forth the standards by which an applicant's internal procedures will be judged, and that it expressly acknowledge that a departure from any suggestion in the guidelines will not be regarded as a *per se* violation of an APO. The commentators also urged the Department to make any guidelines available at the time a party applies for an APO, and that the Department not implement new APO procedures until trade practitioners are provided with the opportunity to comment on the guidelines. Also, with respect to the requirement in the APO application that parties refrain from asking the Department for assistance in handling electronic submissions of another party, commentators requested that any such requests for assistance not be construed as an APO violation.

In light of these comments, the Department intends to issue APO guidelines, and expects that they will be particularly useful to firms that do not have an established practice before the Department. The Department, however, will consider the APO guidelines as just that; guidelines rather than actual terms and conditions of the APO. In addition, we will provide an opportunity to comment on such guidelines before we issue them in final form. As for APO violations, although the Department would take into account the quality of an applicant's internal procedures in considering sanctions for an APO violation, a failure to follow the guidelines certainly would not be considered an APO violation. In addition, we agree that a request for the Department's assistance in handling another party's electronic submissions would not constitute an APO violation.

One commentator suggested that payment for electronic information should be required only where requested. Apparently, a number of law firms do not charge for electronic submissions. We agree that payment for the cost of electronic submissions should be required only if payment is requested, and have incorporated the suggestion in the general regulations that will be published separately.

Certification and Destruction of Business Proprietary Information

Paragraph (a)(4) of § 351.305 requires the destruction of business proprietary information when a party is no longer entitled to it, as well as certification that destruction has been completed. As discussed below, parties now may retain business proprietary information after the completion of the segment of the proceeding in which the information was submitted. The certification requirements would then be triggered at a much later date, at the end of the last segment of the proceeding for which information may be used. Because this may vary from case to case, the specific time at which a party must destroy business proprietary information will be described in the APO.

In its October Notice, the Department addressed the present requirement that, at the end of a segment of a proceeding, an authorized applicant certify to the destruction of APO information within two business days of the expiration of the time for filing for judicial or binational panel review. Of the nine commentators that addressed this issue, all supported extending the deadline to 30 days. These commentators noted that because the CIT sends out JPOs by mail, it may take up to a week for a party to receive a copy of the JPO. Although this may no longer be an issue with respect to most segments of a proceeding, we agree that if this situation does occur, parties should be given more time in which to determine their involvement, if any, in litigation arising out of a particular segment of a proceeding. Thirty days should cover most contingencies, but the Department will be willing to grant extensions for good cause shown.

Another commentator pointed out that if the Department arranged with the CIT to have a single protective order that covered the entire duration of both the Department's and the Court's proceedings, this requirement would not be necessary. Under existing practice, parties obtain an APO for the Department's administrative proceeding, another one for the ITC proceeding, negotiate a third for a judicial proceeding, and then obtain another APO in any remand proceeding where new business proprietary information may be placed on the record. Five commentators proposed streamlining these procedures. Some suggested that the JPO cover any remand proceeding. Others suggested a protective order that covers proceedings of both the Department and the CIT. A third suggested a model JPO.

We agree that it would be beneficial for all parties to craft either an APO or JPO that would remain in effect through court appeals and remands. We believe that any simplification in this regard would result in a significant savings in time and resources to the parties and the agencies, particularly if parties retain business proprietary information for more than a single segment of proceeding. However, this will require discussions between the Department and the CIT. We will enter into discussions with the relevant entities toward this end. In the meantime, the APO will permit access to new business proprietary information submitted in the course of a remand during litigation involving the segment of the proceeding in which the initial APO was issued. Parties no longer will have to apply separately for access under an APO during a remand proceeding.

One commentator opposed having to send the Department a copy of the JPO, arguing that the Department of Justice should provide the Department with the JPO. In our view, the Department needs to know at the end of a proceeding whether an authorized applicant is or is not authorized to retain APO information of other parties, and whether the authorized applicant has taken the correct steps in this regard. Only the authorized applicant, not the Department of Justice, is in a position to know this information.

The requirements concerning an authorized applicant's responsibilities at the end of a segment of a proceeding are contained in the APO.

APO Applications

Paragraph (b) of § 351.305 deals with the APO application process itself. Paragraph (b)(1) addresses the issue of multiple authorized applicants. Under current practice, the Department generally allows only one representative of a party to have access to business proprietary information under an APO. In response to suggestions from practitioners, in its October Notice the Department proposed that two independent representatives of a party be allowed APO access, with one representative being designated as the lead representative. We also proposed granting APOs separately to non-legal representatives only if they had a significant practice before the Department. The purpose of this proposal was to ensure that effective sanctions could be imposed to deter APO violations.

Five commentators addressed this issue. One firm opposed granting APOs to independent non-legal representatives, arguing that such a practice would disperse responsibility for protecting APO information and that the sanction of disbarment from practice before the Department might be inadequate. This commentator also noted that, unlike the legal profession,

there are no independent ethical standards for the other professions typically involved in AD or CVD proceedings.

Two commentators endorsed the proposal to permit two independent representatives to apply for an APO, and another commentator supported an unlimited number. However, all of the commentators that supported giving independent APO access to multiple representatives added the caveat that one representative must not be held accountable for any APO violation of another representative operating under separate APO authorization.

Under current procedures, the Department has allowed access to non-attorney applicants for many years, both as ''other representatives'' retained by attorneys and as the sole representative of a party. We are not proposing to change this practice. Instead, we are proposing that a party be able to have two independent representatives with independent and separate access to information under the APO. Moreover, the Department's experience has demonstrated that non-lawyer applicants are no more likely to violate the terms of an APO than lawyer applicants, and that disclosure to non-lawyer applicants does not increase the risk of an APO violation. In determining whether a non-lawyer representative is a qualified applicant for APO access under § 351.305(c), the Department will consider the extent of that representative's practice before the Department.

As set forth in paragraph (b)(1), generally no more than two independent authorized applicants for one party may apply for disclosure under an APO. In addition, the party must designate a lead authorized applicant if the party has more than one independent representative. With respect to requests that more than two independent representatives be designated as authorized applicants, the Department will consider such requests on a case-by-case basis.

Application for an APO

Paragraph (b)(2) of § 351.305 establishes a ''short form'' application procedure. For some time, parties to AD or CVD proceedings have requested that they be allowed to reproduce the Department's APO application on their own word processing equipment. In the October Notice, the Department proposed two alternatives that would have permitted such reproduction, but that also would prevent the unauthorized alteration of the requirements of the APO itself. Four commentators proposed as an alternative a ''short form'' application that would contain only the information that varies from party to party and case to case. The terms and conditions for access would be in the APO placed on the record of each segment of the proceeding.

The Department agrees that the suggested ''short form'' application would address the concerns of both the Department and the applicants, and we have adopted the suggestion in paragraph (b)(2). However, an important qualification is that an applicant must acknowledge that any discrepancies between the application and the Department's APO placed on the record will be interpreted in a manner consistent with the Department's APO. With this qualification, the new procedure will enable applicants to reproduce the entire application form on their word processing equipment, thereby facilitating the application process.

In addition to the incorporation of the ''short form'' application, paragraph (b)(2) also provides that an applicant must apply to receive all business proprietary information on the record of the particular segment of the proceeding in question. A party no longer may apply to receive only selected parties' business proprietary information. The purpose of this requirement is to eliminate the need for parties to prepare separate APO versions of submissions for each of the different parties involved in a proceeding, and to reduce the number of APO violations that occur through the inadvertent service of a document containing business proprietary information to parties not authorized to receive it. However, in order to avoid forcing parties to receive a submission in which they have no interest, a party may waive service of business proprietary information it does not wish to have served on it by another party. Thus, for example, Respondent A may waive its right to be served with a copy of the business proprietary version of Respondent B's questionnaire response. Nonetheless, if Respondent A receives a copy by mistake, no APO violation will have occurred.

Deadline for Application for APO Access

Paragraph (b)(3) of § 351.305 deals with the deadline for applying for access to business proprietary information under APO. Because the Department has received and denied about six late APO applications per year, in the October Notice we requested comments on whether there might be a better procedure to ensure that parties file timely applications.

Nine commentators addressed this issue, and they unanimously pointed out that it does not always make sense to require that APO applications be submitted early in the segment of a proceeding. Requiring early applications may result in forcing parties to file protective APO applications that subsequently turn out to be unnecessary, thereby adding to the burden on the Department and the parties. In addition, the commentators also were unanimous that expert representation and access to business proprietary data are so important to the effective defense of a party's interests that the Department should provide access liberally by one means or another. With respect to specific deadlines, the commentators offered different suggestions, ranging from the status quo (with extensions available) to no deadline at all.

In dealing with the question of APO application deadlines, the Department balances the need to provide maximum access by parties to APO information with the need to minimize the burden on the Department in processing APO applications, as well as the burden on parties that have to serve late applicants with APO information placed on the record before a late APO is granted. Based on our experience, parties that retain representatives in AD or CVD proceedings typically apply for an APO early in each segment of a proceeding. In light of this fact, and in light of the new procedure for a single APO, we believe that the Department and the parties will not be unduly burdened if APO applications are received throughout the course of a segment of the proceeding. The Department will not have to issue an amended or new APO, but instead need only update the APO service list. Therefore, while paragraph (b)(3) encourages parties to submit APO applications sooner rather than later, it permits parties to submit applications up to the date on which case briefs are due. By adopting this deadline, however, the Department does not intend to allow a late APO application to serve as the basis for extending any administrative deadline, such as a briefing or hearing schedule.

We also have taken into account the burden imposed on parties by late APO applications. Under current rules, parties have only two days in which to serve late applicants with APO information that already has been placed on the record. Under the deadline set forth in paragraph (b)(3), the burden on parties may increase. In recognition of this, all commentators requested that parties have five days in which to serve late APO applicants. In

addition, one commentator suggested that late applicants be required to pay the costs associated with the additional production and service of business proprietary submissions that were served on other parties earlier in the proceeding. We agree with these suggestions, and are incorporating them into § 351.301, which will be published separately.

Approval of the APO Application and the APO Service List

Paragraph (c) of § 351.305 deals with the approval of an APO application. Under paragraph (c), the Department normally will approve an application within two days of its receipt in an Investigation and within five days in other AD and CVD proceedings, unless there is a question concerning the eligibility of an applicant to receive access under APO. In that case, the Secretary will decide whether to grant the application within 30 days of receipt of the application.

If an application is approved, the Secretary will include the name of the authorized applicant on an APO service list that the Department will maintain for each segment of a proceeding. In this regard, in the October Notice the Department raised the issue as to how the Department should provide parties with the APO service list. Several commentators suggested that the Department directly notify each party by the most expeditious means available each time the APO service list changes. One commentator suggested that the Department make the APO service list available daily through electronic means. Two commentators noted that if copies of the list were available only in the Department's Central Records Unit, this would be unduly burdensome for D.C.-based representatives and impractical for out-of-town representatives.

The Department believes that the use of an APO service list will improve and streamline the APO process only if it is readily available to all parties, and we agree that the Department must provide parties with notice as to which representatives of other parties are authorized applicants. In our view, there are three options: notification through the Internet, by direct facsimile from the computer of the Department's APO specialist, or by mail. Paragraph (c) provides that the Secretary will use the most expeditious means available to provide parties with the APO service list on the day the list is issued or amended.

With respect to the approval of APO applications, several commentators emphasized the need for expedited approval in order to ensure timely access. They suggested alternative methods, such as: (1) The creation of a pre-approved roster of members of a representative's firm, or (2) permitting a lead signatory in a firm to grant access to the other professionals within the firm. Four commentators addressed this issue. Three commentators supported the idea of a roster. However, one commentator opposed both suggestions, arguing that they would deprive parties of the opportunity to object, for good cause, to the suitability of particular applicants, and that a party never could be certain as to exactly who had access to its business proprietary information.

In the Department's view, neither of the suggested alternatives is acceptable. With respect to the pre-approved roster approach, there may be facts peculiar to a particular AD or CVD proceeding or a segment of a proceeding that render an otherwise eligible applicant ineligible, and the roster approach would preclude a party from raising legitimate objections to the approval of an APO application. Likewise, the lead signatory approach would preclude parties from exercising their right to object, for good cause, to the disclosure of APO information to a particular individual.

Section 351.306 Use of Business Proprietary Information

Section 351.306 deals with how business proprietary information may be used.

Use of Business Proprietary Information by the Secretary

Paragraph (a) deals with the use of business proprietary information by the Secretary, and is based on existing 19 CFR 353.32(f) and 355.32(f). One change is the reference in paragraph (a)(4) to the disclosure of information to the U.S. Trade Representative under 19 U.S.C. 3571(i). Section 3571(i) (section 281(i) of the URAA) deals with the enforcement of U.S. rights under the WTO Agreement on Subsidies and Countervailing Measures. Also, although the regulation itself is little changed, we note that the URAA amended section 777(b)(1)(A)(i) of the Act to clarify that the Department may use business proprietary information for the duration of an entire proceeding (from initiation to termination or revocation), as opposed to merely the particular segment of a proceeding for which information was submitted.

Use of Business Proprietary Information by Parties

Paragraph (b) of § 351.306 deals with the use of business proprietary information by parties from one segment of a proceeding to another. Paragraph (b) provides that an authorized applicant normally may retain business proprietary information obtained in one segment of a proceeding for two subsequent consecutive segments. However, paragraph (b) also provides that normally an authorized applicant may use such information only in the particular segment of the proceeding in which the information was obtained. An authorized applicant may place business proprietary information received in one segment of a proceeding on the record of either of two subsequent consecutive segments only if the information is relevant to an issue in one of the subsequent segments.

The ability to use information in different segments of a proceeding raises three related issues: (1) Whether authorized applicants should be able to retain business proprietary information after the conclusion of the particular segment in which the information is obtained, or whether they should rely on an index of business proprietary information in identifying and selecting information to be placed on the record of a subsequent segment; (2) whether there are instances other than those discussed above in which an authorized applicant should be able to use business proprietary information in a subsequent segment; and (3) whether the Secretary should reserve the authority to approve what is placed on the record from prior segments.

One commentator argued that for purposes of five-year reviews under section 751(c) of the Act, authorized applicants should be allowed to retain business proprietary information obtained under APO in the course of prior segments. This commentator argued that the information would continue to be subject to APO, and that any harm from the unauthorized disclosure of information after the conclusion of a segment of a proceeding (or the entire proceeding) would be reduced because of the passage of time. Another commentator argued that only the Department, not the parties, may have access to business proprietary information obtained in the course of a changed circumstances or five-year review that leads to revocation or termination, and that parties should not have access for purposes of preparing new petitions.

It has been suggested that certain cost data should carry over from segment to segment for the life of a proceeding by placing all relevant data from the record of one segment on the record of the next segment. Cost information thus would cumulate from one segment to the next. One commentator suggested that the

Department permit APO information from prior segments of a proceeding to be placed on the record of a subsequent segment where it is relevant or the submitted information is inconsistent. This commentator noted that because the Department does not always verify information submitted in reviews, and because the Department does not have subpoena power, the Department could use this device to ensure the accuracy of information submitted to it. Another commentator would require that authorized applicants destroy all information at the end of each segment of a proceeding, and that parties could rely on recollection where they suspect an inconsistency between segments. For this approach to work, a party would have to have access to the Department's business proprietary record from prior segments. A fourth commentator proposed to permit parties to retain all information from any segment of a proceeding for the duration of the proceeding.

As discussed above, we propose to allow authorized applicants to retain business proprietary information obtained under APO for two subsequent consecutive segments of a proceeding. Thus, authorized applicants would be able to use the information to address inconsistencies between the records for up to three different segments of a proceeding. We have limited the retention of business proprietary information to three consecutive segments, because we are concerned with the undue proliferation of sensitive proprietary data, and because, with the exception of situations such as five-year or changed circumstances reviews, data more than two years old generally is not probative. For five-year reviews, parties could rely on the index of business proprietary information for records of segments older than the ones for which they have retained information. Although authorized applicants generally will be able to retain information only for three consecutive segments, the Department will tailor APOs for subsequent segments to the particular needs of that segment. Thus, for example, an APO for a five-year review would allow parties to obtain and use business proprietary information obtained in segments earlier than the third consecutive preceding segment.

With respect to the question of the Secretary's retention of authority to approve the use of information from prior segments, there are advantages and disadvantages. The Department does not want the record of current segments to become crowded with information that is extraneous and irrelevant. Therefore, we have included a requirement that information from a prior segment must be relevant to an issue in the subsequent segment. However, we have not included a requirement that the Secretary approve parties' submissions of information on the record of a subsequent segment. Ultimately, of course, it is the Secretary who must decide the relevance and weight to be accorded to this information, at least at the administrative level. Thus, parties who place irrelevant information on the record of a subsequent segment gain no advantage, and only waste the time of the Department and other parties.

Identifying Parties Business Proprietary Information

Paragraph (c) of § 351.306 addresses identification in submissions of business proprietary information from multiple persons. The background of this issue was discussed in the October Notice. In the October Notice, the Department proposed that APO applicants be required to request access to all business proprietary information submitted in a particular segment of a proceeding, a proposal that, as discussed above, has been incorporated into these regulations. In addition, we also proposed that in the case of submissions, such as briefs, that include business proprietary information of different parties, the submission must identify each piece of business proprietary information included and the party to which the information pertains. (For example, Information Item #1 came from Respondent A, Information Item #2 came from Respondent B, etc.) The purpose of this proposal is to enable parties to submit a single APO version of a submission that may be served on all parties represented by authorized applicants, instead of forcing parties to submit and serve different APO versions for each of the parties involved in a proceeding. In the case of a submission served on a party not represented by an authorized applicant (a relatively rare event), the submitter still would have to prepare and serve a separate submission containing only that party's business proprietary information.

All commentators addressed this proposal, and, with one exception, endorsed it. The supporting commentators agreed that this proposal, if adopted, would expedite the production and service of documents, reduce the costs of participants, and would lead to a significant reduction in the number of inadvertent APO violations. These commentators also supported the Department's proposal to allow authorized applicants the choice of being served with hard copy or electronic information, as well as the ability to waive the receipt of submissions of certain parties. They also agreed that the identification of the source of business proprietary information is essential in reducing the possibility of inadvertent disclosures when a party prepares and serves submissions that contain information of multiple parties, and in preventing the possibility of one party frustrating the effective representation of an opposing party.

One commentator strongly opposed these proposals, asserting that the requirement that an applicant request access to all business proprietary information from all persons was inconsistent with the requirement in section 777 of the Act that an application describe in general terms the information requested and the reasons for the request. This commentator argued that under section 777, a party cannot be compelled to request access to information for which the party has no interest. In this commentator's view, the ability to waive service would not correct this defect, because parties still would be compelled to accept business proprietary information in which they have no interest in a submission containing business proprietary information of multiple parties. For example, Respondent A would be forced to accept a submission from Petitioner that might contain information of Respondent A, as well as of Respondents B, C, and D. This commentator believed that more, rather than fewer, APO violations would result from parties having to expurgate such submissions, and that multiple parties, rather than the original submitter, would be expurgating documents, with no party knowing whether the other parties had expurgated information correctly. This commentator also argued that the proposals would unnecessarily shift the burden of complying with APO procedures from petitioners to respondents, because respondents' representatives would be forced to expurgate multi-party documents that they did not prepare on their own word processing equipment.

Three commentators filed rebuttal comments. One argued that section 777 only requires a party to give a reason why it should have access to business proprietary information, but that it does not preclude the Department from adopting procedures that best protect the information. Another commentator stated that it is more burdensome for parties to prepare multiple party-specific submissions under a deadline

than it is for the receiving party to expurgate other party's data from a document containing multiple-party data, where there may be no deadline. A third commentator took the position that no authorized applicant should be expurgating a business proprietary document to show its client in the first place, and that this is the reason for public summaries of submissions. The client should be familiar enough with its own data to be able to discuss the case with the authorized applicant.

Given the overwhelming support for the Department's proposals, we have incorporated them into these regulations. These proposed procedures simply formalize what has been the Department's practice since 1992. Moreover, we believe that these proposals balance the different interests of petitioners and respondents. Although there are risks of inadvertent APO violations associated with any option, we believe that the fact that all authorized applicants will have access to the business proprietary information of all parties (whether or not service is waived) should reduce significantly the number of inadvertent disclosures. In this regard, the inadvertent service on an authorized applicant of a submission containing information of a party for which the applicant has waived service would not constitute an APO violation.

Disclosures to Parties Not Authorized To Receive Business Proprietary Information

Paragraph (d) of § 351.306 clarifies that no person, including an authorized applicant, may disclose the business proprietary information of another party to any other person except another authorized applicant or a Department official described in § 351.306(a)(2). Any person who is not an authorized applicant and who is served with business proprietary information of another party must return that information immediately to the sender, without reading it if possible, and must notify the Department so that the Department can investigate the disclosure under 19 CFR part 354. The purpose of this requirement is to minimize the damage caused by the unauthorized disclosure of business proprietary information, disclosures that typically are inadvertent.

APO Sanction Procedures

Section 354.1 Scope

The proposed amendment to § 354.1 would revise cross-reference citations to take into account changes in parts 353 and 355 that have occurred since that section was promulgated in 1988.

Section 354.3 Sanctions

The proposed amendment to § 354.3 concerns the private letter of reprimand, which currently is a sanction commonly applied as part of a settlement agreement reached under § 354.7(b). The proposed amendment would allow the Department to issue a private reprimand as a sanction in the first instance, and not solely as part of a settlement of the charges. A private reprimand is a relatively mild sanction that is appropriate whenever a violation is minor and technical in nature, the person who committed the violation took prompt action to prevent harm to the submitter of the proprietary information, the violator cooperated fully with the investigation, and there is no apparent harm to the submitter of the information.

The Department proposes that the private letter of reprimand would accompany the charging letter as a statement of proposed sanction, described in § 354.7(a)(2). The charging letter would indicate that if the charged party does not take the steps described in paragraphs (a)(3)–(a)(6) within 30 days after the date of service of the charging letter, the proposed sanction (*i.e.*, the private letter of reprimand) automatically would become final. This procedure would differ from those pertaining to other proposed sanctions. Other proposed sanctions are enclosed with the charging letter unsigned and undated, and include a caption indicating that they are proposed. Only after the charged or affected party accepts the proposed sanction is it sent in final form. In contrast, if the proposed sanction is a private reprimand, it would be enclosed with the charging letter in its final form, without a caption and signed and dated by the Deputy Under Secretary. Unless contested within 30 days, it would become effective. The charging letter would clearly explain this procedure.

Section 354.5 Report of Violation and Investigation

Paragraph (c)(1) introduces an expedited investigation procedure. Frequently, an individual contacts the Department to report his or her own APO violation, and provides all or most of the relevant details over the telephone or by letter. If the violation is relatively minor and the business proprietary information clearly has not been disclosed to anyone who is not entitled to access, the investigation may be substantially abbreviated. The expedited system would apply in cases in which little further inquiry is necessary. This proposed amendment pertains only to the investigation and does not affect any sanction that might be imposed as a result of a charging letter issued on the basis of the investigation. Paragraph (c)(2) contains the text of current paragraph (c).

The amendment to paragraph (d)(2) reflects proposed changes in the terms of the APO, as discussed above. (See also the October Notice). The Department's standard forms no longer will contain detailed procedures for safeguarding business proprietary information. Instead, it will be the responsibility of the individual subject to an APO to take appropriate measures to protect business proprietary information received under an APO. Accordingly, the list of examples of APO violations simply refers to the procedures described in the APO.

Section 354.6 Initiation of Proceedings

Experience in administering APO sanctions has made it clear that there are certain circumstances that do not warrant the imposition of a sanction, even though a person subject to an APO technically has violated the terms of the APO. Consequently, the Department has developed a policy regarding the instances when it issues a warning, rather than imposing a sanction. The amendment to § 354.6(b) codifies this policy, and enunciates a four-pronged standard for issuing a warning.

The first criterion in paragraph (c)(1) is that the person has taken due care. Due care is an objective standard meaning that the person had taken all the steps that a careful individual would take to establish, maintain, and observe adequate procedures to safeguard business proprietary information. The standard recognizes that, despite appropriate precautions, errors occur. The due care requirement avoids subjective appraisal of the intent of the individual involved. Because people rarely intend to violate an APO, whether a violation was intentional or inadvertent is not a relevant inquiry.

The second prong of the warning standard, contained in paragraph (c)(2), is that the Department cannot previously have found the person to have violated an APO. The Department will not take into account any other on-going APO violation investigation involving that person, even if the other alleged violation occurred first.

Third, as reflected in the first clause of paragraph (c)(3), a warning is never appropriate if the business proprietary information actually has been disclosed to an unauthorized person. Many technical violations, such as the failure to return or destroy documents containing proprietary information at

the specified time, do not result in any disclosure. In other instances, nondisclosure is fortuitous. To cite a common example, a person subject to an APO is able to retrieve, unopened, a document containing business proprietary information that the person sent to someone who was not authorized to have access. In this situation, either the person who sent the document realized the error and immediately retrieved the document, or the recipient realized that he or she should not have the document and promptly notified the sender or the Department. Under either scenario, the nondisclosure depends on timing, and, especially in the latter case, on the good faith of the recipient in returning the document without opening, reading, copying or transmitting it. To this extent, then, whether a first-time violator receives a warning or a sanction may depend on factors not entirely within the person's control. Nondisclosure remains a valid criterion for issuing a warning, however, because disclosure markedly increases the potential for harm to the submitter of the information.

The second clause of paragraph (c)(3) takes into account the fact that sometimes the submitter claims that it has been harmed by an APO violation, but the Department determines otherwise. For example, a submitter may claim that there could be substantial harm because the public version of a document contained business proprietary information, yet the Department's investigation shows that no unauthorized person saw the public version before all copies were retrieved. Therefore, although there may have been a technical APO violation, the Department follows a limited ''no harm, no foul'' rule.

Finally, paragraph (c)(4) takes into account the cooperation, or lack thereof, of the person alleged to have committed an APO violation.

Section 354.7 Charging letter

The amendment to § 354.7(b) moves the text providing for settlement from the end to the beginning of the paragraph, because in practice charges are often settled. Charged or affected parties seeking a settlement often request a hearing, but in their requests ask that a hearing officer not be appointed while settlement talks are pending. In this way, they preserve their rights to a hearing while effectively staying the complicated hearing process and stopping the period for proceeding without a hearing, which is provided for in § 354.13. Amended paragraph (b) codifies this practice.

Less frequently, however, the Department amends, supplements, or withdraws charging letters. Revised paragraph (b) would provide alternate methods of withdrawing charges. The existing regulation requires that a presiding official be appointed to approve the withdrawal. The amendment establishes a three-tiered approach. First, under paragraph (b)(1), if no hearing has been requested (or, under the provision for proceeding without a hearing, no supporting information is presented), the Department could withdraw a charging letter without prejudice to future action based on the same violation. However, if a hearing has been requested but no presiding official has been appointed, under paragraph (b)(2) the Department could withdraw the charging letter, but the Deputy Under Secretary would be precluded from subsequently seeking sanctions for the same alleged violation. Finally, under paragraph (b)(3), where a hearing has been requested and a presiding official appointed, the presiding official would have to approve any withdrawal and also determine whether or not the withdrawal would bar the Department from taking future action based on the same violation.

Section 354.9 Request for a hearing

The amendment to § 354.9 is intended to conform with and reinforce the amendment to § 354.7 that enables a party to request a hearing to preserve its rights pending settlement discussions.

Section 354.15 Sanctions by agreement

The amendment to § 354.15 moves the substance of paragraph (e) to a new § 345.18, which deals with sanctions taken by agreement between the Deputy Under Secretary and a party, as well as sanctions imposed by a final decision under § 354.15.

Section 354.18 Public Notice of Sanctions

Section 354.18 is a new section that contains the substance of current § 354.15(e), and that pertains to publication in the Federal Register of sanctions imposed under a final decision. In addition, § 354.18 provides for the publication of notice of settlement agreements. The amendment codifies the Department's current practice of publishing notices that violations have occurred, even if the sanction is a private reprimand. The Department does not publish notices of warning letters, because no charging letter is issued and no sanctions are imposed.

Section 354.19 Sunset

For years, the Department has included in settlement agreements a sunset provision that provides for the rescission of the charging letter. New § 354.19 codifies this practice with respect to settlements, and also extends the possible availability of sunset to all cases. Expunging an individual's record after a period of time if that person has not mishandled proprietary information in the meantime is fair and reasonable.

Classification

E.O. 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This proposed rule would impose no new reporting or record keeping requirements for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these amendments would not have a significant economic impact on a substantial number of small business entities because the rule that they would amend does not have such an impact and, furthermore, the amendments would tend to simplify the procedures pertaining to administration of APO sanctions. The Deputy Under Secretary for International Trade is responsible for regulations governing sanctions for violations of administrative protective orders. The Assistant Secretary for Import Administration is responsible for the regulations governing issuance and use of administrative protective orders.

List of Subjects in 19 CFR Parts 351, 353, 354, and 355

Business and industry, Foreign trade, Imports, Trade practices.

Dated: January 20, 1996.

Timothy J. Hauser,

Deputy Under Secretary for International Trade.

Dated: December 15, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administrations.

For the reasons stated, it is proposed that 19 CFR Ch. III be amended as follows:

1. Part 351 is added to read as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Information and Argument

Authority: 5 U.S.C. 301 and 19 U.S.C. 1667f.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Information and Argument]

§ 351.304 Establishing business proprietary treatment of information.

(a) *Claim for business proprietary treatment.* (1) Any person that submits factual information to the Secretary in connection with a proceeding may:

(i) Request that the Secretary treat any part of the submission as business proprietary information that is subject to disclosure only under an administrative protective order,

(ii) Claim that there is a clear and compelling need to withhold certain business proprietary information from disclosure under an administrative protective order, or

(iii) In an investigation, identify customer names that are exempt from disclosure under administrative protective order under section 777(c)(1)(A) of the Act.

(2) The Secretary will require that all business proprietary information presented to, or obtained or generated by, the Secretary during a segment of a proceeding be disclosed to authorized applicants, except for:

(i) Customer names submitted in an investigation,

(ii) Information for which the Secretary finds that there is a clear and compelling need to withhold from disclosure, and

(iii) Privileged or classified information.

(b) *Identification of business proprietary information*—(1) *In general.* A person submitting information must identify the information for which it claims business proprietary treatment by enclosing the information within single brackets. The submitting person must provide with the information an explanation of why each item of bracketed information is entitled to business proprietary treatment. All persons submitting a request for business proprietary treatment also must include an agreement to permit disclosure under an administrative protective order, unless the submitting party claims that there is a clear and compelling need to withhold the information from disclosure under an administrative protective order.

(2) *Information claimed to be exempt from disclosure under administrative protective order.* (i) If the submitting person claims that there is a clear and compelling need to withhold certain information from disclosure under an administrative protective order (see paragraph (a)(1)(ii) of this section), the submitting person must identify the information by enclosing the information within double brackets, and must include a full explanation of the reasons for the claim.

(ii) In an investigation, the submitting person may enclose non-public customer names within double brackets (see paragraph (a)(1)(iii) of this section).

(iii) The submitting person may exclude the information in double brackets from the business proprietary information version of the submission served on authorized applicants. See § 351.303 for filing and service requirements.

(c) *Public version.* (1) A person filing a submission that contains information for which business proprietary treatment is claimed must file a public version of the submission. The public version must be filed on the first business day after the filing deadline for the business proprietary version of the submission (see § 351.303(b)). The public version must contain a summary of the bracketed information in sufficient detail to permit a reasonable understanding of the substance of the information. If the submitting person claims that summarization is not possible, the claim must be accompanied by a full explanation of the reasons supporting that claim.

(2) If a submitting party discovers that it has failed to bracket information correctly, the submitter may file a complete, corrected business proprietary version of the submission along with the public version (see § 351.303(b)). However, at the close of business on the day on which the public version of a submission is due under paragraph (c)(1) of this section, the bracketing of business proprietary information will become final. Once bracketing has become final, the Secretary will not accept any further corrections to the bracketing of information in a submission, and the Secretary will treat non-bracketed information as public information.

(d) *Nonconforming submissions*—(1) *In general.* The Secretary will return a submission that does not meet the requirements of section 777(b) of the Act and this section with a written explanation. The submitting person may take any of the following actions within two business days after receiving the Secretary's explanation:

(i) Correct the problems and resubmit the information;

(ii) if the Secretary denied a request for business proprietary treatment, agree to have the information in question treated as public information;

(iii) if the Secretary granted business proprietary treatment but denied a claim that there was a clear and compelling need to withhold information under an administrative protective order, agree to the disclosure of the information in question under an administrative protective order; or

(iv) submit other material concerning the subject matter of the returned information. If the submitting person does not take any of these actions, the Secretary will not consider the returned submission.

(2) *Timing.* The Secretary normally will determine the status of information within 30 days after the day on which the information was submitted. If the business proprietary status of information is in dispute, the Secretary will treat the relevant portion of the submission as business proprietary information until the Secretary decides the matter.

§ 351.305 Access to business proprietary information.

(a) *The administrative protective order.* The Secretary will place an administrative protective order on the record within one day after the day on which a petition is filed or an investigation is self-initiated, or one day after initiating any other segment of a proceeding. The administrative protective order will require the authorized applicant to:

(1) Establish and follow procedures to ensure that no employee of the authorized applicant's firm releases business proprietary information to any person other than the submitting party, an authorized applicant, or an appropriate Department official identified in section 777(b) of the Act.

(2) Notify the Secretary of any changes in the facts asserted by the authorized applicant in its administrative protective order application;

(3) Take the necessary steps to protect business proprietary information during judicial proceedings or binational panel

proceedings under section 516A of the Act.

(4) Destroy business proprietary information by the time required under the terms of the administrative protective order;

(5) Immediately report to the Secretary any apparent violation of the administrative protective order; and

(6) Acknowledge that any unauthorized disclosure may subject the authorized applicant, a partner, associate, or employee, and any partner, associate, employer, or employee of the authorized applicant's firm to sanctions listed in part 354 of this chapter (19 CFR part 354).

(b) *Application for access under administrative protective order.* (1) Generally, no more than two independent representatives of a party to the proceeding may have access to business proprietary information under an administrative protective order. A party must designate a lead firm if the party has more than one independent authorized applicant firm.

(2) A representative of a party to the proceeding may apply for access to business proprietary information under the administrative protective order by submitting Form ITA–367 to the Secretary. Form ITA–367 must identify the segment of the proceeding involved, the identity and eligibility for disclosure of the applicant, and the agreement of the applicant to be bound by the administrative protective order. Form ITA–367 may be prepared on the applicant's own word processing system, accompanied by a certification that the application is consistent with Form ITA–367 and an acknowledgment that any discrepancies will be interpreted in a manner consistent with Form ITA–367. An applicant must apply to receive all business proprietary information on the record of the segment of a proceeding in question, but may waive service of business proprietary information it does not wish to have served on it by other parties to the proceeding.

(3) To minimize the disruption caused by late applications, an application should be filed before the first questionnaire response has been submitted. Where justified, however, applications may be filed up to the date on which the case briefs are due, but any applicant filing after the first questionnaire response is submitted will be liable for costs associated with the additional production and service of business proprietary information already on the record.

(c) *Approval of access under administrative protective order; administrative protective order service list.* The Secretary will grant access to a qualified applicant by including the name of the applicant on an administrative protective order service list. Access normally will be granted within two days of receipt of the application in an Investigation and within five days in other AD and CVD proceedings unless there is a question regarding the eligibility of the applicant to receive access. In that case, the Secretary will decide whether to grant the applicant access within 30 days of receipt of the application. The Secretary will provide by the most expeditious means available the administrative protective order service list to parties to the proceeding on the day the service list is issued or amended.

§ 351.306 Use of business proprietary information.

(a) *By the Secretary.* The Secretary may disclose business proprietary information submitted to the Secretary only to:

(1) An authorized applicant;

(2) An employee of the Department of Commerce or the International Trade Commission directly involved in the proceeding in which the information is submitted;

(3) An employee of the Customs Service directly involved in conducting a fraud investigation relating to an antidumping or countervailing duty proceeding;

(4) The U.S. Trade Representative as provided by 19 U.S.C. 3571(i);

(5) Any person to whom the submitting person specifically authorizes disclosure in writing; and

(6) A charged party or counsel for the charged party under 19 CFR part 354.

(b) *By an authorized applicant.* An authorized applicant may retain business proprietary information for the time authorized by the terms of the administrative protective order, which normally will permit an authorized applicant to retain business proprietary information obtained in one segment of a proceeding for two subsequent consecutive segments. Normally, an authorized applicant may use business proprietary information only for purposes of the segment of a proceeding in which the information was submitted. If business proprietary information that was submitted in an earlier segment of the proceeding is relevant to an issue in either of two subsequent consecutive segments of a proceeding, or in any scope or anticircumvention inquiry, an authorized applicant may place such information on the record of the subsequent segment or scope or circumvention inquiry.

(c) *Source of business proprietary information.* (1) If a party submits a document containing business proprietary information, the submitting party must identify contiguously with each item of business proprietary information the interested party that originally submitted the item (*e.g.*, Petitioner, Respondent A, Respondent B).

(2) If a party to a proceeding is not represented by an authorized applicant, a party submitting a document containing business proprietary information must serve the unrepresented party with a version of the document that contains only the unrepresented party's business proprietary information, but not the business proprietary information of other parties.

(d) *Disclosure to parties not authorized to receive business proprietary information.* No person, including an authorized applicant, may disclose the business proprietary information of another person to any other person except another authorized applicant or a Department official described in paragraph (a)(2) of this section. Any person that is not an authorized applicant and that is served with business proprietary information must return it to the sender immediately, without reading it to the extent possible, and must notify the Department. An allegation of an unauthorized disclosure will subject the person that made the alleged unauthorized disclosure to an investigation and possible sanctions under 19 CFR part 354.

PART 353—[AMENDED]

2. The authority citation for part 353 continues to read as follows:

Authority: 5 U.S.C. 301 and 19 U.S.C. 1677f.

3. Part 353 is proposed to be amended by removing §§ 353.32 through 355.34, and redesignating §§ 353.35 through 353.38 as 353.32 through 353.35 respectively.

PART 354—[AMENDED]

4–5. The authority citation for part 354 is revised to read as follows:

Authority: 5 U.S.C. 301, and 19 U.S.C. 1677.

6. Section 354.1 is revised to read as follows:

§ 354.1 Scope.

This part sets forth the procedures for imposing sanctions for violation of an administrative protective order issued under 19 CFR 353.34 or 355.34, or

successor regulations, as authorized by 19 U.S.C. 1677f(c).

7. Section 354.3 is amended by revising paragraph (a)(3) and (a)(4), and by adding a new paragraph (a)(5), as follows:

§ 354.3 Sanctions

(a) * * *

(3) Other appropriate administrative sanctions, including striking from the record any information or argument submitted by, or on behalf of the violating party or the party represented by the violating party; terminating any proceeding then in progress; or revoking any order then in effect;

(4) Requiring the person to return material previously provided by the Department and all other materials containing the business proprietary information, such as briefs, notes, or charts based on any such information received under an administrative protective order; and

(5) Issuing a private letter of reprimand.

* * * * *

8. Section 354.5 is amended by revising paragraphs (c) and (d)(2), as follows:

§ 354.5 Report of violation and investigation.

* * * * *

(c)(1) The appropriate Director will provide a report of the investigation to the Deputy Under Secretary, after review by the Chief Counsel, no later than 90 days after receiving information concerning a violation if:

(i) The person alleged to have violated a protective order personally notified the Department and reported the particulars surrounding the incident; and

(ii) the alleged violation did not result in any actual disclosure of business proprietary information. Upon the appropriate Director's request, and if extraordinary circumstances exist, the Deputy Under Secretary may grant the appropriate Director up to an additional 90 days to conduct the investigation and submit the report.

(2) In all other cases, the appropriate Director will provide a report of the investigation to the Deputy Under Secretary, after review by the Chief Counsel, no later than 180 days after receiving information concerning a violation. Upon the appropriate Director's request, and if extraordinary circumstances exist, the Deputy Under Secretary may grant the appropriate Director up to an additional 180 days to conduct the investigation and submit the report.

(d) * * *

(2) Failure to follow the procedures outlined in the protective order for safeguarding proprietary information.

* * * * *

9. Section 354.6 is revised as follows:

§ 354.6 Initiation of proceedings.

(a) *In general.* After an investigation and report by the appropriate Director under § 354.5(c) and consultation with the Chief Counsel, the Deputy Under Secretary will determine whether there is reasonable cause to believe that a person has violated a protective order. If the Deputy Under Secretary determines that there is reasonable cause, the Deputy Under Secretary also will determine whether sanctions or a warning is appropriate for the violation.

(b) *Sanctions.* In determining under paragraph (a) of this section whether sanctions are appropriate, and, if so, what sanctions to impose, the Deputy Under Secretary will consider the nature of the violation, the resulting harm, and other relevant circumstances of the case. If the Deputy Under Secretary determines that sanctions are appropriate, the Deputy Under Secretary will initiate a proceeding under this part by issuing a charging letter under § 354.7. The Deputy Under Secretary will determine whether to initiate a proceeding no later than 60 days after receiving a report of the investigation.

(c) *Warning.* If the Deputy Under Secretary determines under paragraph (a) of this section that a warning is appropriate, the Deputy Under Secretary will issue a warning letter to the person believed to have violated a protective order. Sanctions are not appropriate and a warning is appropriate if:

(1) The person took due care;

(2) The Department has not previously found the person to have violated a protective order;

(3) The violation did not result in any disclosure of the business proprietary information or the Department is otherwise able to determine that the violation caused no harm to the submitter of the information; and

(4) The person cooperated fully in the investigation.

10. Section 354.7 is amended by revising paragraph (b), as follows:

§ 354.7 Charging letter.

* * * * *

(b) Settlement and amending the charging letter. The Deputy Under Secretary and a charged or affected party may settle a charge brought under this part by mutual agreement at any time after service of the charging letter; approval of the presiding official or the administrative protective order Sanctions Board is not necessary. The charged or affected party may request a hearing but at the same time request that a presiding official not be appointed pending settlement discussions. Settlement agreements may include sanctions for purposes of § 354.18. The Deputy Under Secretary may amend, supplement, or withdraw the charging letter as follows:

(1) If there has been no request for a hearing, or if supporting information has not been submitted under § 354.13, the withdrawal will not preclude future actions on the same alleged violation.

(2) If a hearing has been requested but no presiding official has been appointed, withdrawal of the charging letter will preclude the Deputy Under Secretary from seeking sanctions at a later date for the same alleged violation.

(3) The Deputy Under Secretary may amend, supplement or withdraw the charging letter at any time after the appointment of a presiding official, if the presiding official determines that the interests of justice would thereby be served. If the presiding official so determines, the presiding official will also determine whether the withdrawal will preclude the Deputy Under Secretary from seeking sanctions at a later date for the same alleged violation.

* * * * *

11. Section 354.9 is amended by revising paragraph (b), as follows:

§ 354.9 Request for a hearing.

(a) * * *

(b) Upon timely receipt of a request for a hearing, and unless the party requesting a hearing requests that the Under Secretary not appoint a presiding official, the Under Secretary will appoint a presiding official to conduct the hearing and render an initial decision.

§ 354.15 [Amended]

12. Section 354.15 is amended by removing paragraph (e).

§ 354.17 [Amended]

13. Section 354.17(b) is amended to change the citation of 19 CFR 353.30 and § 355.20 to 19 CFR 351.205.

14. Section 354.18 is added to part 354, to read as follows:

§ 354.18 Public notice of sanctions.

If there is a final decision under § 354.15 to impose sanctions, or if a charging letter is settled under § 354.7(b), notice of the Department's decision or of the existence of a settlement will be published in the Federal Register. If a final decision is reached, such publication will be no sooner than 30 days after issuance of a final decision or after a motion to

reconsider has been denied, if such a motion was filed. In addition, whenever the Deputy Under Secretary subjects a charged or affected party to a sanction under § 354.3(a)(1), the Deputy Under Secretary also will provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations and to any Federal agency likely to have an interest in the matter. The Deputy Under Secretary will cooperate in any disciplinary actions by any association or agency. Whenever the Deputy Under Secretary subjects a charged or affected party to a private letter of reprimand under § 354.3(a)(5), the Department will not make public the identity of the violator, nor will the Department make public the specifics of the violation in a manner that would reveal indirectly the identity of the violator.

15. Section 354.19 is added to part 354, to read as follows:

§ 354.19 Sunset.

(a) If, after a period of three years from the date of a final decision or settlement in which sanctions were imposed, the charged or affected party has fully complied with the terms of the sanctions and has not been found to have violated another protective order, the party may request in writing that the Deputy Under Secretary rescind the charging letter. A request for rescission must include:

(1) A description of the actions taken during the preceding three years in compliance with the terms of the sanctions; and

(2) A letter certifying that: the charged or affected party complied with the terms of the sanctions; the charged or affected party has not received another administrative protective order sanction during the three-year period; and the charged or affected party is not the subject of another investigation for a possible violation of a protective order.

(b) Subject to the Chief Counsel's confirmation that the charged or affected party has complied with the terms set forth in paragraph (a) of this section, the Deputy Under Secretary will rescind the charging letter within 30 days after receiving the written request.

PART 355—[AMENDED]

16. The authority citation for part 355 continues to read as follows:

Authority: 5 U.S.C. 301 and 19 U.S.C. 1677f.

17. Part 355 is amended by removing §§ 355.32 through 355.34, and redesignating §§ 355.35 through 355.39 as 355.32 through 353.36 respectively.

* * * * *

Note: The following appendix will not appear in the Code of Federal Regulations: Appendix to 19 CFR Part 351, Subpart C—Application for Administrative Protective Order in Antidumping or Countervailing Duty Proceeding, and Administrative Protective Order.

BILLING CODE 3510–DS–P

Case Number
_____
Number of pages
_____
Proceeding
Public Document

United States Department of Commerce
International Trade Administration

APPLICATION FOR ADMINISTRATIVE PROTECTIVE ORDER
in
ANTIDUMPING OR COUNTERVAILING DUTY PROCEEDING

The Matter of the **Antidumping/Countervailing Duty (indicate one)** Proceeding on _____ _____ from _____ _____ (Country) _____ (Product)	ACCEPTED_____ REJECTED_____ DATE_____

This application covers business proprietary information in the following segment of the proceeding:

[ ] Investigation - petition filed on : _____

[ ] Administrative Review initiated on : _____ (___FR_____)

for period : _____to_____

[ ] Other _____ : _____(___FR_____)

_____
(specify)

This application is:

[ ] the initial application of the firm to be placed on the APO service list; or

[ ] a request by the firm to amend the APO service list.

FORM ITA-367 (X.96)

REPRESENTATION

1. I am an applicant for: _____
who is an interested party/parties as follows:

[ ] petitioner; [ ] respondent; [ ] other interested party,

as defined in 19 C.F.R. § _____ of the

Department's regulations.

2. If the interested party/parties I represent have another

authorized applicant or representative, _____

_____

is the lead firm.

REQUEST FOR INFORMATION

3. I request disclosure of all business proprietary information under administrative protective order ("APO") which will be or has been placed on the record of this segment of this proceeding that is releasable under 19 C.F.R. § 351.203 for the purpose of fully representing the interests of my client:

[ ] all business proprietary information, including hard copy and electronic data; or

[ ] all business proprietary information in hard copy form only.

INDIVIDUAL STATEMENTS

4. TO BE COMPLETED BY ATTORNEY APPLICANTS

A. I **am/am not (indicate one)** an officer of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application.

B. I **do/do not (indicate one)** participate in the competitive decision-making activity of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application. I understand that competitive decision-making activity includes advice on production, sales, operations, or investments, but does not include legal advice.

C. I **do/do not (indicate one)** have an official position or other business relationship other than providing advice for the purpose of this segment of the proceeding with the interested party or parties listed in paragraph 1, or with other competitors of the person submitting the business proprietary information requested in this application.

D. I **do/do not (indicate one)** currently intend within 12 months after the date upon which the final determination/results is(are) published to enter into any of the relationships described in paragraphs 4A B and C.

E. Explain for each applicant any affirmative response to paragraph 4A, B, C or D: _____

_____.

5. TO BE COMPLETED BY NON-ATTORNEY APPLICANTS

A. I **am/am not (indicate one) employed by/retained by (indicate one)** a law firm representing the interested party or parties listed in paragraph 1.

B. If I am retained by an attorney, the name of the lawyer and law firm are:

_____

_____.

C. Where not an employee of a law firm and if I have not been retained by the attorney for the interested party or parties listed in paragraph 1, in a separate attachment to this application I am providing information concerning my practice before the International Trade Administration ("ITA").

D. I **am/am not (indicate one)** an officer or employee of a interested party or parties listed in paragraph 1, or of other competitors of the submitter of the business proprietary information requested in this application.

E. I **do/do not (indicate one)** participate in the competitive decision-making activity of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application. I understand that competitive decision-making activity includes advice on production, sales, operations, or investments, but does not include legal advice.

F. I **do/do not (indicate one)** have an official position or other business relationship other than providing advice for the purpose of this segment of the proceeding with the interested party or parties listed in paragraph 1, or with other competitors of the person submitting the business proprietary information requested in this application.

G. I **do/do not (indicate one)** currently intend within 12 months after the date upon which the final determination/results is(are) published to enter into any of the relationships described in paragraphs 5D, E and F.

I. Explain for each applicant any affirmative response to paragraph 5D, E, F or G: _____

_____.

AGREEMENT TO BE BOUND

6. Recognizing the penalties for perjury under the laws of the United States, I affirm that all statements in this application are true, accurate, and complete to the best of my knowledge. I agree, individually and on behalf of my law firm, corporate law office, or company, if any, to be bound by the terms stated in the administrative protective order issued in this segment of the proceeding.

7. I certify that this application is a true and accurate copy of the Department's "Application for Administrative Protective Order", FORM ITA-367 (X.96). If there are any discrepancies, I agree to be bound by the Department's standard form.

INDIVIDUAL SIGNATORIES

8. ATTORNEY APPLICANTS (*SAMPLE FORMAT*)

Individual applicants:

(1) _____, _____, _____
(name of applicant) (signature) (date)

of _____
(name and address of law firm)

_____

I am admitted to practice in the following jurisdiction(s) and before the following court(s):

_____.

9. NON-ATTORNEY APPLICANTS (*SAMPLE FORMAT*)

Individual applicants:

(1) _____, _____, _____
(name of applicant) (signature) (date)

of _____
(name and address of firm)

_____

I am a member of the following professional association(s):

_____.

COURTESY PAGE
FOR
WAIVER OF SERVICE

If my application for administrative protective order ("APO") in this proceeding is granted, I waive service of the following business proprietary information that I would be authorized to receive under the APO:

o

o

o

o

Inadvertent service of a document containing business proprietary information on a party that has been granted APO access and has waived service IS NOT A VIOLATION OF THE APO.

A/C-___-___
(Segment of Proceeding)
(Period of Review)
Public Document

In the Matter of the Antidumping/Countervailing Duty (Segment of Proceeding) of [redacted] from [redacted] (A/C-[redacted])

ADMINISTRATIVE PROTECTIVE ORDER

IT IS HEREBY ORDERED THAT:

All business proprietary information submitted in the above-referenced segment of the proceeding, including new information submitted in a remand during litigation on this segment of the proceeding, which the submitting party agrees to release or the Department of Commerce ("the Department") determines to release, will be released to the authorized applicants on the administrative protective order (APO) service list for this proceeding, except the following:

- customer names in an investigation;
- privileged and classified information; and
- specific information of a type for which the Department determines there is a clear and compelling need to withhold from disclosure.

USE OF BUSINESS PROPRIETARY INFORMATION UNDER THIS APO

Business proprietary information subject to this APO may be used by an authorized applicant in this segment of the proceeding and in the following other segments or proceedings:

[This section will authorize use of business proprietary information in other segments of the same proceeding, or in other proceedings, consistent with the Tariff Act and the regulations. The terms in this section will vary, depending on what segment of the proceeding this APO covers. This section will also establish the deadline for destruction of business proprietary information in each set of circumstances.]

REQUIREMENTS FOR AUTHORIZED APPLICANTS

All applicants authorized to have access to business proprietary information under this APO are subject to the following terms:

1. The authorized applicant must establish and follow procedures to ensure that no employee of the authorized applicant's firm releases business proprietary information to any person other than the submitting party, an authorized applicant, or the appropriate Department official identified in section 351.204(a) of the regulations. No person in the authorized applicant's firm may release business proprietary information received under this APO to any person other than those described in this paragraph.

2. The authorized applicant may allow APO access to one or more paralegals, law clerks, secretaries, or other support staff employed by or on behalf of the applicant's firm and operating within the confines of the firm. The authorized applicant may also use the services of subcontracted individuals to pick up APO information released by the Department. All support staff must sign and date an acknowledgement that they will abide by the terms and conditions of the APO at the time they are first permitted access to any information subject to APO.

3. The authorized applicant must ensure that the computer on which electronic business proprietary information is entered for non-word processing purposes will not be accessible by modem.

4. An applicant who files for APO access after the first questionnaire response is filed in this segment of the proceeding and is approved by the Department for access under APO, must pay all reasonable costs associated with the additional production and service of previously-filed business proprietary submissions, if payment is requested.

5. The authorized applicant must pay all reasonable costs incurred by the submitter of the electronic business proprietary information for the copying of its electronic information released to the authorized applicant, if payment is requested. Reasonable costs include the cost of the electronic medium and the cost of copying the complete proprietary version of the electronic information/medium submitted to the Department in APO releasable form, but not costs borne by the submitter of the electronic data in the creation of the electronic data/medium submitted to the Department.

CERTIFICATION REQUIREMENTS

6. If changed circumstances affect the authorized applicant's representation of an interested party at any time authorized under this APO (i.e., reassignment, departure from firm), the authorized applicant must submit to the Department a certification attesting to his/her personal compliance with the terms of the APO, and that no copies of the materials released subject to the APO have been retained by the

authorized applicant or made available to the interested party/parties the applicant represents, or any other person to whom disclosure was not specifically authorized.

7. At the expiration of the time specified in this APO, the authorized applicant must destroy all business proprietary information and must submit to the Department a certification attesting to his/her personal compliance with the terms of the APO, and that no copies of the materials released subject to the APO have been retained by the authorized applicant or made available to the interested party/parties the authorized applicant represents, or any other person to whom disclosure was not specifically authorized, or provide to the Department official responsible for the administration of the APO in this segment of the proceeding, a protective order issued by a court or binational panel proceeding.

SANCTIONS FOR BREACH OF THIS APO

8. The authorized applicant will be subject to any or all of the sanctions described in 19 C.F.R. Part 354 if there is a violation of this APO by the authorized applicant or any of the persons identified in item 9 of this APO.

9. The authorized applicant will accept full responsibility, individually and on behalf of the authorized applicant's firm or corporate office, for violation of this APO by any employee of the firm or corporate office, or support staff retained by the firm or corporate office, who is permitted access to APO information.

10. The authorized applicant will promptly report and confirm in writing any possible violation of this APO to the Department.

DEFINITIONS

For purposes of this APO, the following definitions apply:

"Representative" is an individual person acting on behalf of an interested party.

"Applicant" is a representative of an interested party who has applied for access to business proprietary information under this APO.

"Authorized applicant" is an applicant that the Secretary has authorized to receive business proprietary information under this APO.

"Lead firm" is the firm that will be the primary contact with the Department and that will accept service of all documents for the party it represents where two firms independently have access under APO.

"Support staff" includes paralegals, law clerks, secretaries and other support staff that are employed by or on behalf of the applicant's firm and operating within the premises of the firm, as well as subcontractors of the firm providing similar support staff functions.

"Electronic data" includes (1) data submitted by a party, generated by the Department, or entered by the recipient on computer tape, disk, diskette, or any other electronic computer medium; and (2) all electronic work products resulting from manipulation of this data, as transferred in any form onto any other electronic computer medium, such as tape, disk, diskette, Bernoulli cartridge, removable disk pack, etc.

_____

(Signature of Department Official)
Typed Name
Title
Import Administration

_____

(date)

[FR Doc. 96–2697 Filed 2–7–96; 8:45 am]
BILLING CODE 3510–DS–C

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Federal Register

Vol. 61, No. 27

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FEDERAL REGISTER PAGES AND DATES, FEBRUARY

CFR PARTS AFFECTED DURING FEBRUARY

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.

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REMINDERS

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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  - Significant new alternatives policy program; published 2-8-96

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- Tin-coated lead foil capsules for wine bottles; use prohibition; published 2-8-96

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- Disaster Relief Act activities; comments due by 2-12-96; published 12-12-95
- Impairment of long-lived assets; comments due by 2-12-96; published 12-14-95

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LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

S. 1341/P.L. 104–102

Saddleback Mountain-Arizona Settlement Act of 1995 (Feb. 6, 1996; 110 Stat. 50)

Note: A cumulative list of Public Laws for the First Session of the 104th Congress was published in Part II of the **Federal Register** on February 1, 1996.

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