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U.S. GOVERNMENT
INFORMATION
GPO

1-2-85
Vol. 50 No. 1
Pages 1-210

federal register

Wednesday
January 2, 1985

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Presidential Documents

Title 3—

The President

Proclamation 5290 of December 27, 1984

National Poison Prevention Week, 1985

By the President of the United States of America

A Proclamation

Between 1962 and 1983, our Nation experienced an 80 percent reduction in childhood poisoning as a result of new, effective safety standards and greater consumer awareness. The number of accidental ingestions of household chemicals, cleaning products, and medicines among children under five years of age dropped from 500,000 to 100,000 during this period.

For the past 24 years, the Poison Prevention Week Council has coordinated a network of health, safety, business, and voluntary organizations to raise public awareness of the problem. In addition, the Consumer Product Safety Commission, which administers the Poison Prevention Packaging Act, requires child-resistant closures on many products that are potentially harmful to children.

While these efforts have been very successful, we must not be satisfied with the progress we have made. Because we believe that almost all such poisonings are preventable, we must continue working to reduce this annual toll by reminding parents and other family members of the steps they can take to avert these tragedies. We must remind them to keep household chemicals, cleaning products, and medicines out of the reach of children and to use resecurable, child-resistant closures on these products.

To encourage the American people to learn about the dangers of accidental poisonings and to take preventive measures, the Congress, by joint resolution approved September 26, 1961 (75 Stat. 681), authorized and requested the President to issue a proclamation designating the third week of March of each year as "National Poison Prevention Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 17, 1985, as National Poison Prevention Week. I call upon all Americans to observe this week by participating in appropriate ceremonies and events.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of December, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-40010
Filed 12-28-84; 12:20 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the United States Standards for Grades of Dry Buttermilk. The revisions will change the title of the standard and the definition of the product to update and accurately describe the product covered by the standard. Also, editorial changes will provide terminology currently in use by the dairy industry and which correctly identifies the agency. The format changes will provide consistency with other U.S. grade standards for dairy products. No substantive changes in grade classification criteria were found necessary. This revision has been developed with the cooperation of the American Dry Milk Institute.

EFFECTIVE DATE: June 1, 1985.

FOR FURTHER INFORMATION CONTACT: Richard W. Webber, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, Room 2750 South Building, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7473.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule under criteria contained therein. Also, pursuant to this Executive Order it has been determined that there would be no effect on trade sensitive activities.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the revisions will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because they will not alter the user fee structure utilized when USDA grading service is provided.

In accordance with the United States Department of Agriculture policy for regulatory review, the Dairy Standardization Section conducted a review of the United States Standards for Grades of Dry Buttermilk. The objective of the review was to obtain both current and historical information to support the criteria of the standard as written, or to support any changes necessary for modernization of the standard that might become apparent from the review. The review was designed to obtain as much information as possible from as many varied sources and interested parties as possible.

The review consisted of several phases. First, a computer search of the National Agricultural Library resources pertaining to dry buttermilk was conducted. From this search, a number of articles and texts were selected having a direct bearing on the review. Next, the dry milk industry was contacted for input via the American Dry Milk Institute. Also contacted were other parties who would have an interest in the standard.

Dry buttermilk is a product of the dairy industry. Dry buttermilk production for 1983 was 39.5 million pounds, an increase of 2.3% over 1982. Total domestic sales for the same period were 38.0 million pounds, an increase of 1.6% over 1982. The Commodity Credit Corporation does not purchase dry buttermilk under the dairy price support program. The dry buttermilk standard is utilized by the industry in commercial sales.

Generally, dry buttermilk is used as an ingredient for a variety of dairy and food products. Principal markets are: Dairy, utilizing 18.6 million pounds; Bakery, utilizing 10.1 million pounds; and, Prepared Dry Mixes, utilizing 6.9 million pounds.

The current United States Standards for Grades of Dry Buttermilk were last revised in January 1971. Since then, a number of technological advances have been accomplished within the dairy industry and new market trends and preferences have emerged. However, analysis of the indepth review of the standard has shown that the established grading criteria have withstood the test of time and continue to adequately describe and classify into grades the product currently produced.

The revisions will change the title of the standard and the definition of the product to update and accurately describe the product covered by the standard. Also, editorial and format changes are being made to modernize the standard and to make it consistent with other U.S. grade standards for dairy products. No changes in grade criteria were found necessary.

A specification for dry buttermilk product has been prepared for a new class of product. The specification covers product definition, grade designations, and quality requirements. After sufficient experience and data have been obtained in using the specification, the Department will propose it as a U.S. grade standard. Copies of the specification can be obtained from the same source as indicated under "For Further Information Contact."

USDA grade standards are voluntary standards that are developed to assist the orderly marketing process. Dairy plants are free to choose whether or not to use these grade standards. USDA grade standards for dairy products have been developed to identify the degree of quality in the various products. Quality in general refers to usefulness, desirability, and value of a product—its marketability—but the precise definition of quality depends on the individual commodity. When dry buttermilk is graded, the regulations governing the grading service of manufactured or processed dairy products, which require all graded dairy products to be produced in a USDA approved plant, would be in effect. These regulations also require a charge for grading services provided by USDA.

Public Comments

On July 27, 1984, the Department published a proposed rule to revise the United States Standards for Grades of Dry Buttermilk (49 FR 30205-30207). The original public comment period was to close on September 25, 1984, but it was

extended to November 26, 1984. Two comments were received. The first comment supported the revision of the grade standard for dry buttermilk and requested USDA to propose the specification for dry buttermilk product as a grade standard as soon as possible. The other comment requested that the specification for Solubility Index be changed from 1.25 to 1.2 to make it consistent with the other dry milk grade standards. This is acceptable since the modification does not represent any practical change in the criteria for this attribute.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

In consideration of the foregoing, 7 CFR Part 58 is amended by revising Subpart Q (§§ 58.2651 through 58.2657) to read as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

Subpart Q—United States Standards for Grades of Dry Sweetcream Buttermilk; Definitions

Sec.

58.2651 Dry sweetcream buttermilk.

U.S. Grades

58.2652 Nomenclature of U.S. grades.
58.2653 Basis for determination of U.S. grades.
58.2654 Specifications for U.S. grades.
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58.2656 Test methods.

Explanation of Terms

58.2657 Explanation of terms.

Authority: Agricultural Marketing Act of 1946, Secs. 203 and 205, 60 Stat. 1087, as amended, and 1090, as amended; 7 U.S.C. 1622 and 1624.

Subpart Q—United States Standards for Grades of Dry Sweetcream Buttermilk;[1] Definition

§ 58.2651 Dry sweetcream buttermilk.

"Dry sweetcream buttermilk" (made by the spray process or the atmospheric roller process) is the product resulting from drying liquid buttermilk that was derived from the churning of sweetcream butter and was pasteurized before the drying process at a temperature of 161°F for 15 seconds or its equivalent in bacterial destruction. Dry sweetcream buttermilk shall have a protein content of not less than 30 percent.[2]

U.S. Grades

§ 58.2652 Nomenclature of U.S. grades.

The nomenclature of U.S. grades of dry sweetcream buttermilk is as follows:
U.S. Extra.
U.S. Standard.

§ 58.2653 Basis for determination of U.S. grades.

(a) The U.S. grades of dry sweetcream buttermilk are determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, butterfat content, moisture content, scorched particle content, solubility index, and titratable acidity.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

§ 58.2654 Specifications for U.S. grades.

(a) *U.S. Extra grade.* U.S. Extra grade dry sweetcream buttermilk shall conform to the following requirements (See Tables, I, II, and III of this section):

(1) *Flavor* (Applies to the reconstituted product). Shall be sweet and pleasing, and has no unnatural or offensive flavors.

(2) *Physical appearance.* Shall possess a uniform cream to light brown color; free from lumps except those that readily break up with slight pressure, and practically free from visible dark particles.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Butterfat content.* Not less than 4.5 percent.

(5) *Moisture content.* Not more than 4.0 percent.

(6) *Scorched particle content.* Not more than 15.0 mg. for spray process, and 22.5 mg. for roller process.

(7) *Solubility index.* Not more than 1.2 ml. for spray process, and 15 ml. for roller process.

(8) *Titratable acidity.* Not less than 0.10 percent; not more than 0.18 percent.

(b) *U.S. Standard grade.* U.S. Standard grade dry sweetcream buttermilk shall conform to the following requirements (See Tables I, II, and III of this section):

(1) *Flavor* (Applies to the reconstituted product). Should possess a fairly pleasing flavor, but may possess slight unnatural flavors and has no offensive flavors.

(2) *Physical appearance.* Shall possess a uniform cream to light brown color; free from lumps except those that readily break up with moderate pressure, and reasonably free from visible dark particles.

(3) *Bacterial estimate.* Not more than 200,000 per gram standard plate count.

(4) *Butterfat content.* Not less than 4.5 percent.

(5) *Moisture content.* Not more than 5.0 percent.

(6) *Scorched particle content.* Not more than 22.5 mg. for spray process, and 32.5 mg. for roller process.

(7) *Solubility index.* Not more than 2.0 ml. for spray process, and 15 ml. for roller process.

(8) *Titratable acidity.* Not less than 0.10 percent; not more than 0.20 percent.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. extra grade	U.S. standard grade
Unnatural	None	Slight.
Offensive	None	None.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE

Identification of physical appearance characteristics	U.S. extra grade	U.S. standard grade
Lumpy: Visible dark particles.	Slight: Practically free.	Moderate. Reasonably free.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate: standard plate count per gram	50,000	200,000
Butterfat content; percent	4.5	4.5
Moisture content; percent	4.0	5.0
Scorched particle content; mg.:		
Spray proc.	15.0	22.5
Roller proc.	22.5	32.5
Solubility index; ml.:		
Spray proc.	1.2	2.0
Roller proc.	15.0	15.0
Titratable acidity; percent	0.10–0.18	0.10–0.20

§ 58.2655 U.S. grade not assignable.

Dry sweetcream buttermilk shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet the requirements for U.S. Standard grade.

(b) Has a protein content of less than 30 percent.

(c) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(d) Produced in a plant which is not USDA approved.

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

[2] Dry sweetcream buttermilk covered by these standards shall not contain or be derived from nonfat dry milk, milkfat from whey, liquid derived from churning milkfat from whey, or other dairy derived products; or shall not contain any added preservative, neutralizing agent or other chemical.

§ 58.2656 Test methods.

All required tests shall be performed in accordance with "Methods of Laboratory Analysis", DA Instruction No. 918–103 (dry milk product series), Dairy Grading and Standardization Branch, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; and "Official Methods of Analysis of the Association of Official Analytical Chemists", 13th Ed. or latest revision.

Explanation of Terms

§ 58.2657 Explantion of terms.

(a) *With respect to flavor:*

(1) *Slight.* Detectable only upon critical examination.

(2) *Offensive.* Those that are obnoxious and cause displeasure when tasted.

(3) *Unnatural.* Those that are abnormal to the characteristic flavor of the product.

(b) *With respect to physical appearance:*

(1) *Practically free.* Present only upon very critical examination.

(2) *Reasonably free.* Present only upon critical examination.

(3) *Slight pressure.* Only sufficient pressure to disintegrate the lumps readily.

(4) *Moderate pressure.* Only enough pressure to disintegrate the lumps easily.

(5) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(6) *Visible dark particles.* The presence of scorched or discolored specks.

Signed at Washington, D.C. on: December 26, 1984.

Eddie F. Kimbrell,

Acting Administrator.

[FR Doc. 84–33978 Filed 12–31–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 907

[Navel Orange Reg. 610]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 4–10, 1985. Such action is needed to provide for the orderly marketing of fresh navel oranges during this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 4, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation of and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1984–85. The marketing policy was recommended by the committee following discussion at a public meeting on September 25, 1984. The committee met again publicly on December 21, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and its effective date.

List of Subjects in 7 CFR Part 907

Marketing Agreements and Orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. § 907.910 is added as follows:

§ 907.910 Navel Orange Regulation 610.

The quantities of oranges grown in California and Arizona which may be handled during the period January 4, 1985, through January 10, 1985, are established as follows:

(a) *District 1:* 800,000 cartons;

(b) *District 2:* Unlimited cartons;

(c) *District 3:* Unlimited cartons;

(d) *District 4:* Unlimited cartons.

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

Dated: December 27, 1984.

Thomas R. Clark,

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

[FR Doc. 84–33983 Filed 12–31–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Parts 959, 966, 971, 979, and 987

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the committees functioning under Marketing Orders 959, 966, 971, 979, and 987. Funds to administer these programs are derived from assessments on handlers of the fruits and vegetables regulated under the orders.

EFFECTIVE DATES: August 1, 1984–July 31, 1985 (§§ 959.225, 966.222, 971.224); October 1, 1984–September 30, 1985 (§§ 979.207 and 987.329).

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–5764.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and

information submitted by each committee established under the respective marketing orders, and upon other information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruits and vegetables handled from the beginning of such period. To enable the committee to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified and handlers have been apprised of such provisions, and the effective time.

List of Subjects in 7 CFR 959, 966, 971, 979, and 987

Marketing agreements and orders, Dates, Lettuce, Melons, Onions, Tomatoes, California, Florida, Texas.

Therefore, §§ 959.224 (M.O. 959), 966.221 (M.O. 966), 971.223 (M.O. 971), 979.206 (M.O. 979), and 987.328 (M.O. 987) are removed and new sections are added as follows: (The following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations.)

PART 959—ONIONS GROWN IN SOUTH TEXAS

§ 959.225 Expenses and assessment rate.

Expenses of $275,433 by the South Texas Onion Committee are authorized, and an assessment rate of $0.045 per 50-pound container or equivalent quantity is established for the fiscal period ending July 31, 1985. Unexpended funds may be carried over as a reserve.

PART 966—TOMATOES GROWN IN FLORIDA

§ 966.222 Expenses and assessment rate.

Expenses of $213,000 by the Florida Tomato Committee are authorized, and an assessment rate of $0.005 per 25-pound container of tomatoes is established for the fiscal period ending July 31, 1985. Unexpended funds may be carried over as a reserve.

PART 971—LETTUCE GROWN IN SOUTH TEXAS

§971.224 Expenses and assessment rate.

Expenses of $48,425 by the South Texas Lettuce Committee are authorized for the fiscal period ending July 31, 1985. During this fiscal period, an assessment rate of $0.03 per carton of lettuce is established. Unexpended funds may be carried over as a reserve.

PART 979—MELONS GROWN IN SOUTH TEXAS

§ 979.207 Expenses and assessment rate.

Expenses of $196,950 by the South Texas Melon Committee are authorized, and an assessment rate of $0.025 per carton of melons is established for the fiscal period ending September 30, 1985.

In accordance with the provisions of § 979.42, late payment charges of one and one-half percent per month shall be charged on the unpaid balance for each past due account. An account is past due 30 days after the billing date. Unexpended funds may be carried over as a reserve.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

§ 987.329 Expenses and assessment rate.

Expenses of $27,643 by the California Date Administrative Committee are authorized, and an assessment rate payable by each handler in accordance with § 987.72 of 8 cents per hundredweight of assessable dates is established for the crop year ending September 30, 1985. Any unexpended funds from that crop may be used temporarily during the first four months of the ensuing crop year, and thereafter shall be credited or refunded to the handler from whom collected.

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

Dated: December 26, 1984.

Thomas R. Clark,

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

[FR Doc. 84-33862 Filed 12-31-84; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 83-021C-2]

Titanium Dioxide and Isolated Soy Protein; Correction

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on isolated soy protein (49 FR 19621; 32055) by restoring certain paragraph designations and references to those paragraphs, to reduce the possibility of those paragraphs being miscited.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Insepction Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On May 9, 1984, the Food Safety and Inspection Service (FSIS) published a final rule in the **Federal Register** (49 FR 19621) which revoked the requirement that isolated soy protein used as an ingredient in meat and poultry products must contain titanium dioxide. In so doing, FSIS made changes to the numbering of remaining paragraphs and, accordingly, references to them elsewhere in the regulations.

The purpose of this correction notice is simply to reinstate the original numbering of these remaining, long-standing and oft-cited regulatory paragraphs and references to them elsewhere in the regulations, in order to reduce the likelihood of those paragraphs being miscited, and prevent confusion over their content.

Accordingly, FSIS amends the meat and poultry inspection regulations as follows:

PART 318—[AMENDED]

§ 318.6 [Amended]

1. Section 318.6 of the Federal meat inspection regulations (9 CFR 318.6) is amended by removing the present text from paragraph (b)(11) and by redesignating it as paragraph (b)(12). Paragraph (b)(11) is reserved for future use.

PART 381—[AMENDED]

§ 381.145 [Amended]

2. In § 381.145(h) of the poultry products inspection regulations (9 CFR 381.145(h)), the reference to "§ 381.147(e)(3)" is changed to read "§ 381.147(f)(3)."

§ 381.147 [Amended]

3. § 381.147 of the poultry products inspection regulations (9 CFR 381.147) is amended by removing the present text from paragraph (e) and by redesignating it as paragraph (f). Paragraph (e) is reserved for future use.

4. In § 381.147(f)(1) of the poultry products inspection regulations (9 CFR 381.147(f)(1)), the reference to

"§ 381.147(e)(4)" is changed to read "§ 381.147(f)(4)."

5. In § 381.147(f)(3) of the poultry products inspection regulations (9 CFR 381.147(f)(3)), the reference to "paragraph (e)(1)" is changed to read "paragraph (f)(1)," and the reference to "paragraph (e)(4)" is changed to read "paragraph (f)(4)."

Done at Washington, D.C., on December 27, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-33859 Filed 12-31-84; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 304

Reporting Requirements on Deposits Placed by Deposit Brokers and Depository Institutions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule amendment.

SUMMARY: The Office of Management and Budget has reviewed and approved the reporting requirement contained in the final rule adopted by the Federal Deposit Insurance Corporation ("FDIC") and published as FR Doc. 84-32585 beginning on page 48906 in the issue of Monday, December 17, 1984, as an addition to Part 304 of FDIC's rules and regulations, 12 CFR Part 304, Forms, Instructions and Reports. The rule requires each FDIC-insured bank with combined fully insured brokered deposits and fully insured deposits placed directly by depository institutions in excess of either the bank's total capital and reserves or five percent of the bank's total deposits to report holdings of such deposits to the FDIC for every month in which such excess exists. The reports has been assigned OMB Control No. 3064-0074. This amendment incorporates the OMB control number within § 304.4 of FDIC's regulations.

EFFECTIVE DATE: January 16, 1985.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Planning and Program Development Specialist, or Stephen G. Pfeifer, Examination Specialist, Federal Deposit Insurance Corporation, Division of Bank Supervision, (202) 389-4761, 550-17th Street, NW., Washington, D.C. 20429.

List of Subjects in 12 CFR Part 304

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Foreign banks, banking, Reporting and recordkeeping.

Accordingly, the FDIC hereby amends 12 CFR Part 304 as set forth below.

PART 304—FORMS, INSTRUCTIONS AND REPORTS

1. The authority citation for Part 304 reads as follows:

Authority: 12 U.S.C. 1817, 1818, 1819, 1820.

§ 304.4—[Amended]

2. Section 304.4(d) is added as follows:

* * * * *

(d) *OMB Review.* The Office of Management and Budget has reviewed and approved the reporting requirement contained in this § 304.4

(OMB Control No. 3064-0074)

Dated: December 24, 1984.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 84-33963 Filed 12-31-84; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 505d

Information Collection Requirements

AGENCY: Federal Home Loan Bank Board.

ACTION: Final Rule.

SUMMARY: The Federal Home Loan Bank Board is amending 12 CFR 505d.1(b) to add an OMB control number assigned pursuant to the Paperwork Reduction Act of 1980, relating to information-collection requirements contained in the Board's regulations for earnings-based accounts (12 CFR 563.10).

EFFECTIVE DATE: January 2, 1985.

FOR FURTHER INFORMATION CONTACT: Colleen Devine, Chief, Management Analysis Staff, Administration Office (202-377-6025), Federal Home Loan Bank Board, 1700 G St., NW., Washington D.C. 20552.

SUPPLEMENTARY INFORMATION: The Board has determined that observance of the notice and comment procedures of 5 U.S.C. 552(b) and 12 CFR 508.11 and the delay of effective date pursuant to 5 U.S.C. 552(d) and 12 CFR 508.11 is unnecessary, because the amendment is of a minor, technical nature in that it merely updates the list of published OMB control numbers.

List of Subjects in 12 CFR Part 505d

Savings and loan associations, Information collection requirements.

SUBCHAPTER A—GENERAL

PART 505d—[AMENDED]

PART 505d—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

Amend § 505d.1 by adding at the end of the display in paragraph (b) the following:

§ 505d.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

* * * * *

563.10	3068-0511

(Pub. L. 96-511; 5 CFR 1320.7(f)(2), 1320.14(e))

By the Federal Home Loan Bank Board.

Norman H. Raiden,

General Counsel.

[FR Doc. 84-33988 Filed 12-31-84; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 24216; Special Conditions No. 23-ACE-9]

Special Conditions: British Aerospace Jetstream Model 3101 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued to British Aerospace (BAe) to become part of the type certification basis for new BAe Jetstream Series 3100, Model 3101 airplanes to be added to Type Certificate No. A21EU. The airplane will have novel or unusual design features associated with turbopropeller engine installations incorporating Automatic Power Reserve Systems (APR) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. These special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations applicable to the Jetstream Model 3101 airplane.

A Notice of Proposed Special Conditions, Notice No. 23-ACE-9, was published in the **Federal Register** on September 6, 1984 (49 FR 35121) and no comments were received in response to that Notice.

EFFECTIVE DATE: February 1, 1985.

FOR FURTHER INFORMATION CONTACT: Oscar E. Ball, Aerospace Engineer, Regulations & Policy Office, Room 1656, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The applicable airworthiness standards for import products are those regulations designated in accordance with § 21.29 and are known as the "type certification basis" for the airplane design. The certification basis for the BAe Jetstream Model 3101 airplane is as follows: Federal Aviation Regulations (FAR) § 21.29 and Part 23, effective February 1, 1965, including Amendments 23-1 through 23-3; Special Conditions in FAA letter of October 30, 1967; Special Federal Aviation Regulations (SFAR) No. 41, effective October 17, 1979, including Amendments 41-A and 41-C; FAA Exemption No. 3548, issued on June 10, 1982; SFAR No. 27, effective February 1, 1974, including Amendments 27-1 through 27-4; Part 36, effective December 1, 1969, including Amendments 36-1 through 36-12; and the Special Conditions adopted by this rulemaking action.

Background

On February 20, 1984, the British Civil Aviation Authority (CAA), on behalf of British Aerospace Scottish Division, requested amendment to Type Certificate Data Sheet A21EU for Jetstream Series 3100 airplane Model 3101. BAe plans to incorporate certain modifications into the airplane, including more powerful turbopropeller engines with an integral Automatic Power Reserve System (APR) built into the fuel control of each engine. The APR is designed to increase the power on the operating engine automatically in the event of engine power loss during takeoff.

Engine systems which automatically affect the power output of other engines were not considered when the regulations were promulgated. When such systems are incorporated into the airplane design, they may be identified as novel or unusual design features.

If, because of novel or unusual design features, the Administrator finds that the airworthiness standards designated in accordance with § 21.17)(a)(1) do not contain adequate or appropriate safety standards, special conditions may be issued. Special conditions, when appropriate, are issued in accordance with §§ 21.16 and 21.101(b)(2), and become part of the type certification basis in accordance with § 21.17(a)(2). Accordingly, the FAA issued Notice No. 23-ACE-9 (49 FR 35121; September 6, 1984) proposing special conditions to become part of the type certification basis for the BAe Jetstream Model 3101 airplane to be added to Type Certificate No. A21EU because of these novel or unusual design features; i.e., the APR system.

Discussion of Comments

The FAA received no comments in response to Notice No. 23-ACE-9 published in the **Federal Register** on September 6, 1984. The closing date for comments was October 8, 1984. However, Notice No. 23-ACE-6, Docket No. 23682 (49 FR 35123, September 6, 1984) proposing identical special conditions for Fairchild Aircraft Corporation (FAC) Model SA227 Series airplanes, received extensive comments from a single commenter, FAC. Those comments are being analyzed for disposition prior to final adoption of special conditions for the FAC SA227.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, Special Conditions No. 23-ACE-9 are adopted for the BAe Jetstream Series 3100, Model 3101 airplanes, equipped with APR systems, to be added to Type Certificate No. A21EU, as follows:

1. General

All references in these special conditions to specific sections of Parts 23, 135, and to SFAR 41 are to those sections in effect as defined in the Certification Basis for Jetstream Model 3101 (Type Certificate Data Sheet No. A21EU).

2. Definitions

A. Automatic Power Reserve System

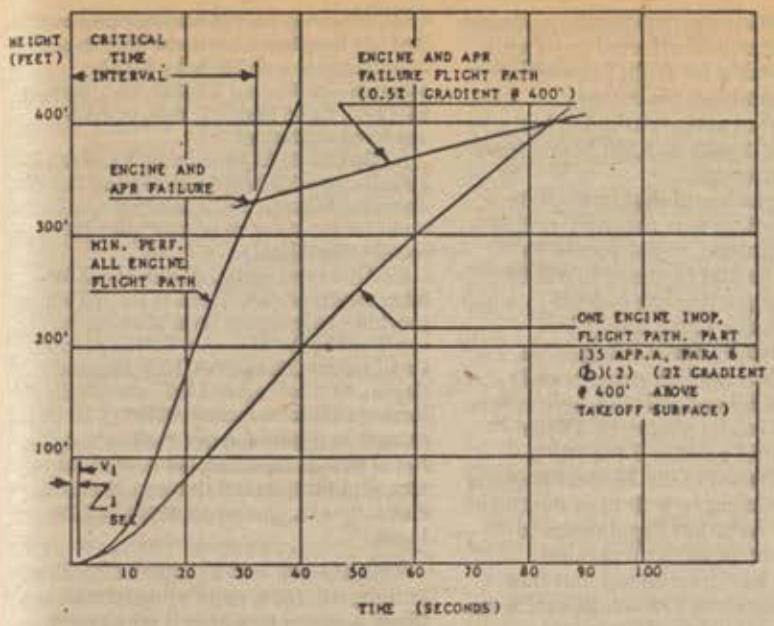
An Automatic Power Reserve (APR) System is defined as the entire automatic system used only during takeoff, including all devices both mechanical and electrical that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines, including power sources, to achieve scheduled power increase and furnish cockpit information on system operation.

B. Selected Takeoff Power

Notwithstanding the definition of "Takeoff Power" in Part 1 of the Federal Aviation Regulations, "Selected Takeoff Power" means each power obtained from each initial power setting approved for takeoff under these special conditions.

C. Critical Time Interval

The critical time interval is that period starting at V_1 minus one second and ending at the intersection of the "engine and APR failure flight path" line with the "minimum performance all engine flight path" line. The "engine and APR failure flight path" line intersects the "one engine inoperative flight path" line at 400 feet above the takeoff surface. The "engine and APR failure flight path" is based on the airplane's performance and must have a positive gradient of at least 0.5% at 400 feet above the takeoff surface. The critical time interval is illustrated in the following figure:



(For Illustration only - typical for 120K climb speed)

3. Reliability and Performance Requirements

With the APR System and associated systems functioning normally, all applicable requirements of the certification basis previously established, except as provided in these special conditions, must be met without requiring any action by the crew to increase power. In addition:

A. It must be shown that, during the critical time interval, an APR failure which increases or does not affect power on either engine will not create a hazard to the airplane, or it must be shown that such failures are improbable.

B. It must be shown that, during the critical time interval, there are no failure modes of the APR system that would result in a failure that will decrease the power on either engine, or it must be shown that such failures are extremely improbable.

C. It must be shown that, during the critical time interval, there will be no failure of the APR system, in combination with an engine failure, or it must be shown that such failures are extremely improbable.

D. All applicable performance requirements of SFAR 41 must be met with an engine failure occurring at the most critical point during takeoff with the APR system functioning normally.

4. Power Setting

The selected takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

A. The power necessary to attain, at V_1, ninety (90) percent of the maximum takeoff power approved for the airplane for the existing conditions;

B. That required to permit normal operation of all safety-related systems and equipment that are dependent upon engine power or power lever position; and

C. That shown to be free of hazardous engine response characteristics when power is advanced from the selected takeoff power level to the maximum approved takeoff power.

5. Powerplant Controls—General

A. In addition to the requirements of § 23.1141, no single failure or malfunction or probable combination thereof, of the APR, including associated systems, may cause the failure of any powerplant function necessary for safety.

B. The APR must be designed to:

(1) Provide a means to verify to the flight crew before takeoff that the APR is in a condition to perform its intended function;

(2) Apply power on the operating engine, following an engine failure during takeoff, to achieve the maximum attainable takeoff power without exceeding engine operating limits;

(3) Provide that, following an engine failure with the APR operating normally, manual adjustments of the power levers by the crew shall not deactivate the APR;

(4) Provide a means for the flight crew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation; and

(5) Allow normal manual decrease or increase in power up to the maximum takeoff power approved for the airplane under the existing conditions through the use of power levers, as stated in § 23.1141(c), except as provided under paragraph C below.

C. For airplanes equipped with limiters which automatically prevent engine operating limits from being exceeded, other means may be used to increase the maximum level of power controlled by the power levers in the event of an APR failure. In this case, the means must be located on or forward of the power levers, must be easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and must meet the requirements of § 23.777 (a), (b), and (c).

6. Powerplant Instruments

In addition to the requirements of § 23.1305 and paragraph 58 of Part 135, Appendix A, which is incorporated by reference in SFAR 41—

A. A means must be provided to indicate when the APR system is in the armed or ready condition.

B. If the inherent flight characteristics of the airplane do not provide warning that an engine has failed, a warning system that is independent of the APR must be provided to give the pilot a clear warning of any engine failure during takeoff.

C. Following an engine failure at V_1 or above, there must be means for the crew to readily and quickly verify that the APR system has operated satisfactorily.

(Secs. 313(a), 314(a), 601, 603, 608, 609(a), and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355(a), 1421, 1423, 1428, 1429, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983.); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.28 and 11.29(b))

Issued in Kansas City, Missouri, on December 17, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-33819 Filed 12-31-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-ASW-52; Amdt. 39-4972]

Airworthiness Directives; Sikorsky Model S-76A Helicopters Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Sikorsky S-76A helicopters, certificated in all categories, by individual letters. The AD requires replacement of the main rotor pitch horn at 5,500 hours' time in service. The AD is needed to prevent operations with a component that has exceeded its revised replacement time.

DATES: Effective January 10, 1984, as to all persons except those persons to whom it was made immediately effective by priority letter AD 84-17-01, issued August 16, 1984, which contained this amendment.

Compliance schedule—As prescribed in the body of AD.

ADDRESSES: The applicable sections of the maintenance manual may be obtained from Sikorsky Aircraft, Division of United Technologies, North Main Street, Stratford, Connecticut 06601.

A copy of the applicable sections of the maintenance manual is contained in the Rules Docket, Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Donald F. Thomspon, Airframe Section, ANE-152, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7113.

SUPPLEMENTARY INFORMATION: On August 16, 1984, priority letter AD 84-17-01 was issued and made effective immediately as to all known U.S. owners and operators of Sikorsky S-76A helicopters certificated in all categories. The AD required replacement of the main rotor pitch horn at 5,500 hours' time in service. Additional engineering data compiled by Sikorsky Aircraft for the main rotor pitch horn, Part Number (P/N) 76102-08011-042, shows that a reduction in the replacement time was required. Therefore, AD 84-17-01 was needed to reduce the main rotor pitch horn service life to 5,500 hours' time in service, provide information for removal and replacement of affected parts with parts acceptable for flight (airworthy part), and establish repetitive replacement of main rotor pitch horn, P/N 76102-08011-042, at 5,500 hours' time in service intervals.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters, issued August 16, 1984, to all known U.S. owners and operators of Sikorsky S-76A helicopters certificated in all categories. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation involves 230 helicopters with a cost of compliance of $414,000. Therefore, I certify that this action (1) is not "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Sikorsky Aircraft: Applies to Model S-76A helicopters with main rotor pitch horn, P/N 76102-08011-042, installed and certificated in all categories.

Compliance is required as indicated, unless already accomplished.

For helicopters with main rotor pitch horns with more than 5,500 hours' time in service on the effective date of this AD, compliance is required prior to further flight, unless already accomplished, and thereafter at intervals not to exceed 5,500 hours' time in service.

For helicopters with main rotor pitch horns with 5,500 hours' or less time in service on the effective date of this AD, compliance is required prior to the accumulation of 5,500 hours' time in service, unless already accomplished, and thereafter at intervals not to exceed 5,500 hours' time in service.

To prevent possible failure of the main rotor pitch horn, accomplish the following:

(a) Remove and replace the main rotor pitch horn, P/N 76102-08011-042, with a new or an airworthy part of the same part number, that has less than 5,500 hours' time in service in accordance with Sikorsky S-76A Maintenance Manual SA4047-76-2, Section 65-12-03, dated March 1, 1984, or FAA-approved equivalent.

(b) Special flight permit may be issued in accordance with FAR §§ 21.197 and 21.199 to operate a helicopter to a base for replacement of the main rotor pitch horns required by this AD.

(c) Alternate repairs, modifications, or other means of compliance to the AD which provide an equivalent level of safety may be approved by the Manager, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 as amended, (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g), (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

This amendment becomes effective January 10, 1984, as to all persons except those persons to whom it was made immediately effective by priority letter AD 84-17-01, issued August 16, 1984, which contained this amendment.

Issued in Fort Worth, Texas, on December 13, 1984.

Clinton A. Murphy,

Acting Director, Southwest Region.

[FR Doc. 84-33845 Filed 12-31-84; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Reg ER-1400; Economic Reg. Amdt. No. 53; Docket 41607]

Uniform System of Accounts and Reports for Certificated Air Carriers

Editorial Note: FR Doc. 84-33742, published in the **Federal Register** of Monday, December 31, 1984, renamed Chapter II of Title 14 as follows: "Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings)".

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB reduces reporting requirements to a minimal level for certificated air carriers operating small aircraft in strictly domestic passenger service. This action will more closely align the data collected with the Board's data needs at it moves towards sunset, while recognizing the current and post-sunset needs of other Federal agencies that continue to require aviation data now collected by the Board.

DATES:

Adopted: December 21, 1984.

Effective: January 1, 1985.

The reporting requirements contained in this rule are subject to Office of Management and Budget clearance, which has been granted under clearance number 3024–0013 until June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or M. Clay Moritz, Jr., Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–6042 or after December 31, 1984, Office of Aviation Information Management, Data Requirements and Public Reports Division, DAI–10, Room 4125, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426–7372.

SUPPLEMENTARY INFORMATION: By EDR–465/ODR–26, 48 FR 36601, August 12, 1983, the Board proposed removing certificated air carriers operating small aircraft (60 seats or less, or 18,000 pounds maximum payload or less) in strictly domestic passenger service from the Part 241 accounting and reporting requirements and place them instead under a less extensive Part 298 reporting system. In a separate rule issued simultaneously (ER–1399), the Board summarized this proposal and stated that it would be adopted as proposed.

In EDR–465/ODR–26 the Board also proposed the following miscellaneous and editorial changes:

(1) Amending the Table of Contents by adding § 241.19–7;

(2) Amending § 241.03 by removing the obsolete definitions "air carrier, supplemental" and "operations;"

(3) Amending § 241.1–8 to reflect recent staff reorganizations;

(4) Amending § 241.19–2 by eliminating incorrect references to various reporting requirements;

(5) Amending § 241.19–4 by redefining scheduled and nonscheduled services; and

(6) Removing "small air carrier" from the title of CAB Form 41, Schedules B–1.1, B–43.1, P–1.1 and P–5.1(a).

No comments were filed in response to any of these proposed technical changes. The Board is, therefore, adopting them as proposed.

Regulatory Flexibility Analysis

For reasons stated in EDR–465/ODR–26, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 241

Air carriers, Uniform System of accounts, and reports.

PART 241—[AMENDED]

Final Rule

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers*, as follows:

1. The authority for Part 241 is:

Authority: Sections 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, 901, 902, 1002, 1601, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 758, 766, 769, 774, 783, 788; 76 Stat. 145, 92 Stat. 1744; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1472, 1482, 1551; sec. 43, Pub. L. 95–504, 92 Stat. 1750, 49 U.S.C. 1552.

2. The heading for Part 241 is revised to read *Uniform System of Accounts and Reports for Large Certificated Air Carriers.*

3. The Table of Contents would be amended by adding an entry for § 19–7, *Passenger origin-destination survey*, and revising the two undesignated Center headings now reading, *General Reporting Provisions—Route Air Carriers* and *Traffic and Capacity Route Carriers*, to read as follows:

Sec.

* * * * *

19–7 Passenger origin-destination survey.

* * * * *

General Reporting Provisions—Large Certificated Air Carriers

* * * * *

Traffic and Corporate Reporting Requirements

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4. Section 01 is amended by revising the introductory text to read:

Section 01 Authority Under Which Accounting and Reporting Rules and Regulations are Prescribed and Administered.

This Uniform System of Accounts and Reports for Large Certificated Air Carriers is issued, prescribed and administered under the following provisions of the Federal Aviation Act of 1958, as amended (72 Stat. 731, 49 U.S.C. 1301):

* * * * *

Section 03—[Amended]

5. Section 03, *Definitions for Purposes of this System of Accounts and Reports* is amended by:

A. Adding a new definition immediately following the definition *Air carrier, charter* to read:

* * * * *

Air carrier, large certificated—an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958, as amended, that: (1) Operates aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds; or (2) conducts operations where one or both terminals of a flight stage are outside the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the United States Virgin Islands.

* * * * *

B. Removing the definitions *Air carrier, supplemental* and *Operations.*

6. Section 04 is amended by revising paragraph (a) to read:

Section 04—Air Carrier Groupings.

(a) All large certificated air carriers are placed into three basic air carrier groupings based upon their level of operations and the nature of these operations. In order to determine the level of operations, total operating revenues for a twelve month period are used. The following operating revenue ranges are used to establish air carrier groupings:

Carrier group	Total annual operating revenues
I	0 to $75,000,000.
II	$75,000,001 to $200,000,000.
III	$200,000,001 plus.

For reporting purposes, Group I air carriers are further divided into three subgroups: (1) Air carriers with total annual operating revenues between $10,000,000 and $75,000,000; (2) air carriers with total annual operating revenues below $10,000,000 that receive subsidy payments under section 406 of the Act, and (3) air carriers with total annual operating revenues below $10,000,000 that do not receive subsidy payments under section 406 of the Act.

* * * * *

7. Section 1–1 is amended by substituting "Large certificated air carrier" for "route air carrier and each supplemental air carrier," so that as revised it reads:

Sec. 1–1 Applicability of system of accounts and reports.

Each large certificated air carrier shall keep its books of account, records and memoranda and make reports to the Board in accordance with this system of accounts and reports. The Civil Aeronautics Board reserves the right, however, under the provisions of sections 407 and 416 of the Federal Aviation Act of 1958, as amended, to expand or otherwise modify the classes of carriers subject to this system of accounts and reports.

8. Section 1–8 is revised to read:

Sec. 1–8 Address for reports and correspondence.

All reports required under this part and related correspondence shall be addressed to: Data Administration Division, DAI–20, Room 4123, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

9. Section 19–2 is amended by revising paragraphs (a) and (g) to read:

Sec. 19–2 Maintenance of data.

(a) Each large certificated air carrier shall maintain its operating statistics covering the movement of traffic according to the uniform classifications prescribed herein. Uniform codes are also prescribed for each operating element and service class for the convenience of the Board, and at the option of each carrier, may or may not be used for internal carrier purposes.

* * * * *

(g) Each large certificated air carrier shall submit to the Civil Aeronautics Board a detailed statement of its method of computing available ton-miles and available seat-miles for each type of aircraft operated. Also, any future changes in methods of computation shall be submitted, subject to review and approval by the Civil Aeronautics Board. (See section 22(d).) The measurement of available aircraft capacity may reflect company minimum fuel requirements in lieu of the requirements under Federal Aviation Regulations, provided that the use of such company fuel requirements is indicated in the above statement and that the statement contain certification by a responsible company official that said fuel loads are not in excess of company safety requirements. The reason for exclusion of any installed seats in the computation of available seat-miles with respect to any aircraft type and the provisions made for protecting against the sale of such seats, shall be described in this statement and shall be certified to by a responsible company official. (See section 03 "seats available.")

10. Section 19–3 is amended by revising paragraph (a) to read:

Sec. 19–3 Accessibility and transmittal of data.

(a) Each large certificated air carrier shall maintain its prescribed operating statistics in a manner and at such locations as will permit ready availability for examination by representatives of the Board. All Group I subsidized carriers and Group II subsidized carriers and all Group III carriers shall transmit to the Board on a monthly basis individual flight stage data for scheduled service as prescribed in Section 19–5, summarized by flight number, service segment, service class and aircraft type. Group I subsidized carriers and Group II subsidized carriers and all Group III air carriers shall utilize either ADP tapes or ADP punched cards for transmitting the prescribed data to the Board unless otherwise specifically permitted by the Office of Comptroller to provide flight stage data on Schedule T–9. All unsubsidized Group I carriers and unsubsidized Group II carriers shall transmit to the Board on a monthly basis individual flight data for scheduled services as prescribed in the reporting instructions for Schedule T–9 in Section 25 of this Part.

* * * * *

11. Section 19–4 is amended by revising paragraphs (a) and (b) to read:

Sec. 19–4 Service classes.

* * * * *

(a) *Scheduled services.* For scheduled services, which shall include traffic and capacity elements applicable to air transportation performed pursuant to published schedules, extra sections and other flights performed as an integral part of the published flight schedules, the following classifications shall be maintained, as applicable:

A000 Scheduled First Class Passenger-Cargo Service.

C000 Scheduled Coach Passenger-Cargo Service.

E000 Scheduled Mixed Passenger-Cargo Service.

G000 Scheduled Cargo Service.

(b) *Nonscheduled services.* For nonscheduled services, which shall include all traffic and capacity elements applicable to the performance of aircraft charters, and other air transportation services not constituting an integral part of services performed pursuant to published flight schedules (but shall not include data applicable to flights performed as extra sections to published flight schedules, which shall be reported in the appropriate classification of scheduled services), the following classifications shall be maintained, as applicable:

L000 Nonscheduled Civilian Passenger-Cargo Service.

N000 Nonscheduled Military Passenger-Cargo Service.

P000 Nonscheduled Civilian Cargo Service.

R000 Nonscheduled Military Cargo Service.

* * * * *

12. Section 19–7 is amended by revising paragraph (a) to read:

Sec. 19–7 Passenger origin-destination survey.

(a) All large certificated air carriers conducting scheduled passenger operations (except helicopter and wholly intra-Alaska carriers) shall participate in a Passenger Origin-Destination Survey covering domestic and international operations, as described in the instruction manuals entitled, *Instructions to Air Carriers for Collection and Reporting Passenger Origin-Destination Survey Statistics, Instructions to Air Carriers for Collection and Reporting Passenger Origin-Destination Survey Statistics—Special Edition for Carriers Reporting for the First Time on or After October 1, 1979* and *Passenger Origin-Destination Directives* issued by the Board's staff. Copies of these manuals have been provided to carriers and all revisions made after the adoption of this section will be mailed to each carrier. Copies are also available through the Information Management Division, Office of Comptroller.

* * * * *

13. The undesignated center heading now reading, *General Reporting Provisions—Route Air Carriers,* is revised to read:

GENERAL REPORTING PROVISIONS—LARGE CERTIFICATED AIR CARRIERS

14. Section 21, is amended by revising paragraphs (a), (c), (g) and (h), to read:

Section 21—Introduction to System of Reports.

(a) Each large certificated air carrier subject to the Federal Aviation Act of 1958, as amended, shall file with the Civil Aeronautics Board, monthly, quarterly, semiannually, and annually CAB Form 41 Reports of financial and operating statistics as prescribed herein unless waiver has been made by the Civil Aeronautics Board.

* * * * *

(c) The prescribed system of reports provides that the frequency of reporting shall be monthly for some schedules, quarterly for some, semiannually for some and annually for others. It also provides in some areas for the classification of large certificated air carriers into Group I, Group II, and Group III with the form and content differentiated as between groups.

* * * * *

(g) Four separate air carrier entities shall be established for large certificated air carriers conducting scheduled service for the purpose of submitting the prescribed reports. They are as follows:

(1) Domestic operations; (2) operations via the Atlantic Ocean; (3) operations via the Pacific Ocean; and (4) operations in Latin American areas. With respect to the first classification, the domestic entity shall embrace all operations within and between the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the United States Virgin Islands, and shall also include Canadian transborder operations. The reports to be submitted by each entity shall be comparable to those required of a distinct legal entity whether the reporting entity constitutes such an entity, a semiautonomous physically separated operating division of the carrier, or an entity established for reporting purposes only.

(h) Two separate entities shall be established for large certificated air carriers predominantly engaged in conducting charter activities for the purpose of submitting the prescribed reports: (1) Domestic operations; and (2) international operations. The domestic entity includes all operations within and between the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands. All other operations will be in the international entity.

* * * * *

15. Section 22 is amended by revising the List of Schedules in CAB Form 41 Report in paragraph (a) and by revising the introductory text of paragraph (b) to read:

Section 22—General Reporting Instructions.

(a) * * *

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Schedule title	Filing frequency	Applicability by carrier group		
			I	II	III
A	Certification	Q	(1)	X	X
B-1	Balance Sheet	Q	(1)	X	X
B-1.1	Balance Sheet	S-A	(2)		
B-3	Statement of Changes in Stockholder Equity	Q		X	X
B-5	Property and Equipment	Q	(2)	(3)	(3)
B-7	Airframes and Aircraft Engines Acquired	Q		(4)	(4)
B-7(b)	Flight Equipment Acquired	Q	(2)	(2)	(3)
B-8	Property and Equipment Retired	Q	(2)	X	X
B-10	Unamortized Developmental and Preoperating Costs	Q	(2)	(2)	(3)
B-12	Statement of Changes in Financial Position	Q	(1)	X	X
B-13	Summary of Projected Financial Commitments and Related Deposits.	Q	(2)	X	X
B-41	Receivables, Payables and Investments Relating to Affiliates and Other Investment Data.	A	(1)	X	X
B-43	Inventory of Airframes and Aircraft Engines	A	(1)	X	X
B-43.1	Aircraft Inventory Data	A	(2)		
B-46	Long-Term and Short-Term Nontrade Debt	A	(2)	(2)	X
P-1.1	Statement of Operations	S-A	(2)		
P-1.2	Statement of Operations	Q	(1)	X	X
P-1(a)	Interim Operations Report	M	X	X	X
P-2	Notes to CAB Form 41 Report	Q	(1)	X	X
P-3	Transport Revenues; Depreciation and Amortization; Nonoperating Income and Expense (Net)	Q	(1)	X	X
P-3(a)	Income Taxes	Q			X
P-4	Transport-related Revenues and Expenses; Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes on Prior Years; Explanation of Prior Period Adjustments and Dividends Declared.	Q	(2)	(2)	(3)
P-5.1	Aircraft Operating Expenses	Q	(1)		
P-5.2	Aircraft Operating Expenses	Q		X	X
P-5.1(a)	Statement of Aircraft Operating Expenses	S-A	(2)		
P-5(a)	Components of Flight Equipment Depreciation	Q	(2)	(2)	(3)
P-6	Maintenance, Passenger Service and General and Administrative Expense Functions.	Q	(1)	X	X
P-7	Aircraft and Traffic Servicing, and Promotion and Sales Expense Functions—Group II and Group III Air Carriers.	Q		X	X
P-8	Aircraft and Traffic Servicing, and Promotion and Sales Expense Subfunctions—Group III Air Carrier.	Q			X
P-10	Employment Statistics by Labor Category	A	(1)	X	X
P-12(a)	Fuel Consumption by Type of Service and Specific Operational Markets.	M	(1)	X	X
T-1(a)	Traffic and Capacity Statistics by Class of Service	M	X	X	X
T-1(b)	Traffic and Capacity Statistics by Class of Service-Scheduled Services.	M		X	X
T-1(c)	Traffic and Capacity Statistics by Class of Service-Nonscheduled Services.	M		X	X
T-2(a)	Traffic, Capacity, Aircraft Operations and Miscellaneous Statistics by Type of Aircraft.	Q	X	X	X
T-2(b)	Traffic, Capacity, Aircraft Operations, and Miscellaneous Statistics by Type of Aircraft.	Q	X	X	X
T-3(a)	Airport Activity Statistics—Revenue Service	Q	X	X	X
T-3(b)	Airport Activity Statistics—Revenue Service	Q	X	X	X
T-3(c)	Airport Activity Statistics—Nonscheduled Revenue Service	Q	X	X	X
T-8	Report of All-Cargo Operations	A	(5)	(5)	(5)
T-9	Nonstop Market Report	M	(4)	(4)	
G-41	Persons Holding More than 5 Per Centum of Respondent's Capital Stock.	A	(1)	X	X

(1) Applicable to Group I air carriers receiving section 406 subsidy and Group I air carriers with annual operating revenues of $10 million or more.
(2) Applicable to Group I air carriers with annual operating revenues below $10 million who do not receive section 406 subsidy.
(3) Applicable only to air carriers receiving section 406 subsidy.
(4) Applicable to air carriers who do not receive section 406 subsidy.
(5) Applicable to carriers conducting all-cargo operations.

Note.—M = Monthly; Q = Quarterly; S-A = Semiannually; A = Annually; X = All Carriers

* * * * *

(b) Each large certificated air carrier shall file the applicable schedules of the CAB Form 41 Report with the Civil Aeronautics Board in accordance with the above instructions with the following exceptions:

* * * * *

Section 23—[Amended]

16. Section 23, *Certification and Balance Sheet Elements*, is amended by:

Schedule A—[Amended]

A. Revising paragraph (b) of reporting instructions for Schedule A to read:

* * * * *

(b) The certification of the Form 41 reports, embodied in Schedule A thereof, shall read as follows:

I, the undersigned (Title of officer in charge of accounts) ——— of the (Full name of the reporting company) ——— do certify that this report and all schedules and supporting documents which are submitted herewith or have been submitted heretofore as parts of this report filed for the above indicated period have been prepared under my direction; that I have carefully examined them and declare that they correctly reflect the accounts and records of the company, and to the best of my knowledge and belief are a complete and accurate statement, after adjustments to reflect full accruals, of the operating revenues and expenses, income items, assets, liabilities, capital, surplus, and operating statistics for the periods reported in the several schedules; that the various items herein reported were determined in accordance with the Uniform System of Accounts and Reports for Large Certificated Air Carriers prescribed by the Civil Aeronautics Board; and that the data contained herein are reported on a basis consistent with that of the preceding report except as specifically noted in explanations accompanying the financial and statistical statements.

B. Revising the heading of Schedule B–1.1 to read:

Schedule B–1.1—Balance Sheet

C. Revising the heading of Schedule B–43.1 to read:

Schedule B–43.1—Aircraft Inventory Data

SECTION 24—[AMENDED]

17. Section 24, *Profit and Loss Elements*, is amended by:

A. Revising the heading of Schedule P–1.1 to read:

Schedule P–1.1—Statement of Operations

B. Revising the heading of Schedule P–5.1(a) to read:

Schedule P–5.1(a)—Statement of Aircraft Operating Expenses

18. The undesignated center heading now reading *Traffic and Capacity—Route Carriers* is revised to read:

TRAFFIC AND CORPORATE REPORTING REQUIREMENTS

CAB Form 41 Report is amended accordingly, and copies are available at the address given under **FOR FURTHER INFORMATION CONTACT.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–33847 Filed 12–31–84; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 298

[Reg. ER–1399; Economic Regs. Amdt. No. 30; Docket 41607]

Exemptions for Air Taxi Operations

Editorial Note: FR Doc. 84–33742, published in the **Federal Register** of Monday, December 31, 1984, renamed Chapter II of Title 14 as follows: "Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings)".

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB reduces reporting requirements to a minimal level for certificated air carriers operating small aircraft in strictly domestic passenger service, and limits the reporting of mail and cargo data on Form 298–C, Schedule T–1 to intra-Alaskan passenger carriers operating only small aircraft. This action also establishes a confidential period of 3 years for the financial data (operating revenues, operating expenses, scheduled passenger revenues, and net income) reported by certificated air carriers on the new Schedule F–1. These actions align the data collected with the Board's data needs in preparation for sunset, while recognizing the post-sunset needs of other Federal agencies that will continue to require aviation data now collected by the Board.

DATES:

Adopted: December 21, 1984.

Effective: January 1, 1985.

The reporting requirements contained in this rule are subject to Office of Management and Budget clearance, which has been granted under clearance number 3024–0009 until September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or M. Clay Moritz, Jr., Data Requirements, Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, DC. 20428, (202) 673–6042 or after December 31, 1984, Office of Aviation Information Management, Data Requirements and Public Reports Division, DAI–10, Room 4125, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–7372.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPRM)[1] dated July 27, 1983, the Board proposed to (1) remove certificated air carriers operating small aircraft (60 seats or less or 18,000 pounds maximum payload or less) in strictly domestic passenger service from the Part 241 accounting and reporting requirements, and place these carriers under a less extensive Part 298 reporting system, (2) limit the reporting of mail and cargo data on CAB Form 298–C, Schedule T–1 to intra-Alaskan carriers, (3) establish a new report to obtain summary financial data from commuter air carriers [2] and small certificated air carriers [3] and withhold such financial data from public disclosure for a period of three years.

Only thirteen comments including three reply comments were received in response to the rulemaking notice.[4] The reply comments were filed by RAA, Pilgrim Aviation & Airlines, Inc. (Pilgrim) and Will's Air (Will's). The vast majority of the commenters supported the removal of the certificate carriers operating exclusively with small aircraft from the Form 41 reporting system [5] and placing them under the Form 298 reporting system; [6] however,

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[1] EDR–465/ODR–26 (48 FR 36601, August 12, 1983).

[2] Commuter air carrier means an air taxi operator that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

[3] Small certificated air carrier means an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958, as amended, that only operates aircraft with 60 seats or less or 18,000 pounds maximum payload or less in strictly domestic passenger service.

[4] Atlantic Air (Atlantic); Britt Airways, Inc. (Britt); Henson Aviation, Inc. (Henson); Mall Airways, Inc. (Mall); USAir, Inc. (USAir); Scenic Airlines (Scenic); Regional Airline Association (RAA); Air Line Pilots Association (ALPA); U.S. Department of Transportation (DOT); and Office of Management and Budget (OMB).

[5] 14 CFR Part 241.

[6] 14 CFR Part 298.

most were opposed to the new financial reporting for commuter air carriers. These comments will be discussed below under separate captions.

No objections were received to limit the reporting of mail and cargo data only to intra-Alaskan carriers.

Changes in Reporting Requirements for Small Certificated Air Carriers

RAA and DOT supported the proposal to remove certificated air carriers operating strictly domestic service with small aircraft from the Part 241 reporting system, and placing them under the less extensive Part 298 system. ALPA and USAir opposed parts of the proposal.

Under the proposed rulemaking, small certificated air carriers would be required to file Form 298–C, Schedules A–1 "Report of Flight and Traffic Statistics in Scheduled Passenger Operations," E–1 "Report of Non-scheduled Passenger Enplanements By Small Certificated Air Carriers," F–1 "Report of Financial Data," F–2 "Report of Aircraft Operating Expenses and Related Statistics," and T–1 "Report of Revenue Traffic By On-Line Origin and Destination."

ALPA states that the proposal goes too far because Form 41 Schedules B–1, "Balance Sheet," B–12 "Statement of Changes in Financial Condition," P–1.2 "Statement of Operation," and T–2 "Traffic, Capacity, Aircraft Operation and Miscellaneous Statistics by Type of Aircraft" are necessary for monitoring both the financial condition and safe operation of certificated air carriers operating small aircraft.

USAir on the other hand supports the proposal except the removal of small carriers from the Passenger Origin-Destination (O & D) Survey.[7] USAir contends that it will be placed in an inequitable competitive position vis-a-vis small carriers if the latter are not required to provide such data. Further, USAir contends that the Board is inconsistent to assert O & D data are needed from larger carriers for the essential air service (EAS) program [8] while arguing in this case such data are not needed from smaller certificated carriers which have the primary or sole responsibility for this service in many instances.

RAA filed a reply comment opposing USAir. In rebutting USAir's position, RAA states that the great bulk of small aircraft operators were never certificated and consequently were never required to file O & D data in the first place. RAA also states that USAir's competitive argument is limited because the competition between operators who utilize small aircraft exclusively and larger carriers is not that extensive.

The Board is not persuaded by USAir's competitive argument. USAir will not be at a competitive disadvantage since the smaller carriers will be filing Form 298–C, Schedule T–1 "Revenue Traffic By On-Line Origin and Destination." This schedule is a 100 percent sample on-line origin and destination report rather than a 10 percent sample of flights reported in the O & D Survey.

USAir's argument that is paradoxical to require large carriers to file O & D Survey data for the EAS program but not the smaller ones who are prime participants, is the same as that, raised in the O & D Survey rulemaking.[9] In that rulemaking, the Board found that it was not inconsistent, and that the O & D Survey data and the T–1 reports provide a comprehensive source of O & D data for the EAS program.

ALPA's contention that the small certificated air carriers should continue filing the Form 41 report for monitoring financial condition and safety, was not supported by DOT. DOT, speaking for FAA, its agency responsible for airline safety, supported the reduced reporting. The Board has found that this reduced reporting will be sufficient to meet the statutory needs after sunset.

Small certificated air carriers have been filing extensive financial information in the Form 41 report, so it would be a rather large reduction in reporting for them. It was stated in the NPRM that the decrease in reporting would be approximately 68 to 81 percent depending on a carrier's size.

Comments of Office of Management and Budget

The collection of information requirements in EDR–465/ODR–26 were submitted to the Office of Management and Budget (OMB) for review. OMB reviewed the proposal under authority granted by the Paperwork Reduction Act of 1980 and 5 CFR Part 1320 and did not approve the changes contemplated in EDR–465/ODR–26. Instead, OMB filed comments in response to the rulemaking notice.

Issues raised by OMB's comments center around the reporting of financial information by small air carriers. The Board interprets OMB's questions to be: (1) Are there less burdensome alternative to recurrent reporting such as voluntary surveys? (2) Does the information have to be publicly disclosed? (3) Do the needs of one program justify blanketing the industry? (4) Would less detailed or frequent reporting suffice?

Recent experience shows that voluntary surveys do not work. As an example, the Board attempted to monitor the fitness of commuter air carriers through an arrangement with Dun and Bradstreet, whereby these commuter carriers would voluntarily supply limited financial data to Dun and Bradstreet for Board use. This arrangement was terminated because the majority of carriers would not respond to Dun and Bradstreet's inquiries on a voluntary basis.

Besides the apparent reluctance of carriers to voluntarily provide financial information, major problems were encountered concerning the uniformity of information submitted. The financial data that were received differed significantly as to the accounts and accounting treatment and varied widely as to reporting periods. Because of this, the information received could not be used for comparative analyses or as a sample for projection, thereby lessening its utility as an analytical tool. Comparative analyses under a mandatory reporting system are easily made and are used extensively by the Board in its programs.

The Board stated in the proposed rule that it was proposing to maintain this financial information confidential for 3 years. The Board does not, therefore, understand OMB's apparent concern over publicly releasing the information.

OMB expresses concern over making all small carriers file information when all of them are not participating in government programs, such as the guaranteed loan program of the subsidized essential air service program. While the Board understands OMB's concern in this limited area, there were other needs expressed by DOT such as safety, forecasting, airport development, and cost/benefit analysis of proposed rules which affect all carriers.

Finally, OMB questioned whether the financial information could be reported in less detail or less frequently. The Board has cut the reporting requirement to the minimum level, with only four data items requested. They are Total Operating Revenues, Total Operating Expenses, Net Income or (Loss) and Passenger Revenue-Scheduled Service. These categories are about as broad as can be and still be meaningful. For instance, in forecasting or assessing economic impact, operating revenues would be reviewed separately from operating expenses since factors may impact one and not the other. The quarterly frequency for financial data

[7] 14 CFR 241.19–7.

[8] 49 U.S.C. 1389.

[9] ER–1379, 49 FR 14298, April 11, 1984.

fits into the quarterly frequency for the traffic reports (Form 298–C, Schedules A–1 and T–1) that the carriers are already filing.

Based on the above conclusions, the Board has decided to remove certificated air carriers operating only small aircraft in strictly domestic service from the Part 241 reporting requirements. Instead, these carriers will file the less extensive Form 289–C report as proposed in the NPRM.

Requiring Commuter Air Carriers To File Financial Information on Schedule F–1

DOT asked the Board to exercise its authority under section 407(a) of the Act by requiring the reporting of financial information from commuter air carriers. The information sought was Total Operating Revenues, Total Operating Expenses, Passenger Revenues-Scheduled Service and Net Income. The proposed rulemaking stated that the financial information was needed by DOT for forecasting traffic, trust fund revenues, system planning, assessing operations, airport development, safety and equipment acquisition. This is the first time commuter air carriers would be required to file financial information.[10] Heretofore, commuters have been filing only traffic statistics.

RAA, Atlantic, Britt, Henson and Scenic oppose the reporting of financial information by commuter air carriers. Pilgrim and Will's filed reply comments supporting RAA's position. ALPA and DOT filed in support of the proposal. RAA filed comments in rebuttal to DOT. Most of the opposing comments stated that DOT has failed to justify its needs. DOT's needs and other issues raised will be discussed below.

DOT Need—Aircraft Loan Guarantee Program

The proposed rulemaking stated that the financial information is needed for the Aircraft Loan Guarantee Program [11] administered by FAA. RAA, Pilgrim, Will's and Henson feel that this program does not justify the need for commuters filing financial data. They state that it is a dying program and that FAA is in a position to know which carrier may be experiencing financial difficulty since it has to waive various covenants in the various mortgages for carriers who do not meet certain loan conditions. Henson also stated that needing data for the loan guarantee program is "ridiculous" since loan guarantees should only be made to carriers who after financial screening would justify such as investment by the government.

DOT reiterated its need for financial data, stating that it needed the data to perform its responsibilities under the Aircraft Loan Guarantee Program. It stated that at June 30, 1983, there was an outstanding loan balance of $684 million due through the mid-1990's and that the information would enable FAA to monitor these loans and detect which carriers are experiencing financial difficulties.

RAA, replying to DOT, stated that less than 10 percent of the outstanding loan balance was owned by commuters. At September 30, 1983, there were 31 loans amounting to $62.5 million that were guaranteed for 17 commuters. RAA argued that the small participation by the commuters does not justify extending a financial reporting requirement to an entire industry.

DOT Need—Forecasting Traffic

Another reason advanced in the rulemaking for needing financial information was traffic forecasting. DOT supported the proposal by restating its position that the financial information will assist in its review of regulations affecting commuter air carriers. According to DOT, the availability of financial data will help to assess the potential industry impact of rulemaking proposals and aid in the formulation of proposals prior to their issuance for comment. DOT believes that this will ultimately save potential commenters and the agency time and money. DOT further states that the information will enable the Department to perform cost/benefit analysis of proposed regulations. Also, DOT states that the information is needed for input to its econometric models which are used to assess other aeronautic needs. These models are used to address such policy issues as what effect changes in costs and/or taxes would have on the demand for aviation activity.

RAA, Pilgrim and Will's feel that the traffic forecasting need has not been justified. RAA states that it fails to understand the relevance of financial information to traffic forecasts. Henson states that the various traffic statistics now being reported on Form 298–C, such as Revenue Passenger Miles, Passengers Enplaned by Station, etc. should provide basic information on economic activity of the airlines. Henson further states that the retrofitting of aircraft example given for the cost/benefit analysis is something so unusal that it appears to be a prefabricated request that does not merit a response. Henson also stated that the security screening example for assessing economic impact is now ancient history and should not enter the picture.

DOT Need—Estimating Trust Fund Revenues and Airport Development Funds

DOT argues that it needs the financial information for estimating trust fund revenues and airport development funds. Under the Airport and Airway Improvement Act of 1982,[12] DOT is required to publish the status of the existing national airport plan. This plan shall include the type and estimated cost of airport development necessary to provide a safe, efficient, and integrated system of public-use airports to meet the anticipated needs of civil aeronautics and national defense. The FAA is required to report annually to Congress on the research engineering development programs, facilities, and equipment necessary to meet the forecasted needs of civil aeronautics for a 10-year period (section 504(b) of the Act). DOT stated that commuter operations account for about one-third of commercial aircraft activity at airports and, based on current estimates, commuter operations will account for approximately 50 percent in the next 10 years. DOT stated that the proposed financial information is needed for airport and airspace planning to meet the needs of this growing segment of the industry. Finally, DOT stated that financial data from commuters will be helpful in administering the Airport and Airway Trust Fund, which currently has annual receipts in excess of $1 billion.

RAA, Pilgrim and Will's question the need for financial data to estimate trust funds and airport development funds. They contend that DOT did not justify this need. RAA states that it is ironic that DOT would use the aviation trust fund argument, when DOT and OMB refuse to spend the monies already in the trust fund. It states that information on trust fund taxes collected is provided to the Internal Revenue Service (IRS) and would provide more direct information on trust fund revenues. RAA states that commuter carriers contribute such a small amount to the total trust fund that the new reporting requirements are not justified. Considerating the experienced growth in the industry, Henson contends that there is no reason for changing the current method of estimating trust fund

[10] Commuter air carriers were previously requested to submit financial data to Dun and Bradstreet on a voluntary basis; however, the program was terminated due to the poor reporting response and the lack of uniformity in the data received.

[11] Pub. L. 85–307.

[12] Pub. L. 97–248, 49 U.S.C. 2201 *et seq.*

revenues using financial data submitted by small certificated carriers.

DOT Need—Safety and Fitness

EDR-465 stated that safety and fitness issues were another need for the reporting of financial data by commuter air carriers. Financial data would allow FAA and the Board to identify financially unstable carriers that may require further surveillance.

RAA (Pilgrim and Will's filed in support of RAA), Mall and Britt oppose the data collection based on safety and fitness. RAA states that the National Transportation Safety Board (NTSB) in extensive studies found no documented relationship between financial health and safety. RAA contends that FAA has wide authority to require substantial financial data from carriers that they suspect of safety violations, so that developing industry-wide reporting to develop information that FAA can already request is unnecessary. RAA also states that the Board's obligation to assure continuing fitness duplicates to a substantial degree FAA's jurisdiction over safety, and will most likely not survive the Board's sunset. In any case, RAA states that through its auditing function and ability to require special reports, the Board can secure such information as it requires from any carrier whose fitness may be at issue.

RAA, Mall and Britt also state that the reporting of financial information by large certificated carriers has not prevented any bankruptcies, protected the consumers or resulted in any decertifications.

Deregulation Versus Regulation

RAA, Atlantic, Britt, Henson and Scenic oppose the reporting of financial information, feeling that since financial information was not required during regulation, it is not needed in the era of deregulation. Pilgrim and Will's filed reply comments in support of RAA. Pilgrim also stated that obtaining financial information from commuter air carriers for the first time will open the door for other new reporting.

Paperwork Reduction Act of 1980 (PRA)

Mall opposes this new financial reporting because it is contrary to the intent of the Paperwork Reduction Act.

Cost

Atlantic opposes financial reporting on the basis of cost. It states that although the cost of $1,900 to implement financial reporting and $1,200 for annual maintenance seems moderate, it is money that a commuter air carrier can better spend elsewhere.

Level of Reporting

Pilgrim feels that the information supplied by small certificated air carriers under the proposed Schedule F-2, "Report of Aircraft Operating Expenses and Related Statistics" and the data provided by carriers participating in section 419 subsidized EAS program in replacement and carrier selection proceedings will provide sufficient data to meet the postsunset need for comparative aircraft operating cost and indirect expenses for small aircraft operations. It opposes any changes in this level of reporting.

Comments of Office of Management and Budget

OMB commented twice to this proposed rule. First it filed comments to the NPRM and asked that the Board do further study in four areas before a final rule was processed. These four areas were analyzed for small certificated air carriers. The Board's comments are included in the preceding caption "Changes in Reporting Requirements for Small Certificated Air Carriers."

Although these four areas are equally applicable to commuter carriers, they will not be repeated in this caption for commuters. Subsequent correspondence from OMB, as discussed in the next paragraph, rendered them moot.

The Board submitted a proposed final rule to OMB on November 2, 1984, for review under the Paperwork Reduction Act of 1980. OMB stated in its letter of November 16, 1984, that—

> . . . By requiring financial data reporting by commuter air carriers, the rule imposes a burden that, in the light of the Airline Deregulation Act of 1978 and the CAB's impending sunset, appears to be unwarranted and without practical utility. The CAB has never required financial data from commuters and yet has administered its fitness program successfully for the past six years. We find no evidence to suggest that the domestic fitness program would benefit from the new collection.
>
> CAB's primary reason for including commuter financial reporting is that the DOT needs the data in order to effectively administer several departmental programs. We find no compelling reason for CAB to adopt this provision six weeks before sunset. DOT has full statutory authority to collect non-duplicative industry data in order to support its ongoing programs. DOT is able to submit an information collection request to OMB for approval under simple administrative procedures which do not even require rulemaking.
>
> We are, therefore, returning the final rule to the CAB for reconsideration for the reasons outlined above. . .

Based on the arguments raised by the commenters and the recommendation of OMB, the Board is eliminating from the final rule the requirement that commuter air carriers file financial information. This issue will be deferred to the Department of Transportation for further study.

Confidentiality

The last issue in the proposed rule is the confidentiality issue on the withholding from public disclosure for a period of 3 years, the financial data reported on Schedule F-1 "Report of Financial Data."

RAA, Mall, Atlantic, Britt, Henson and Scenic fear that it would be impossible for the Board to maintain the confidentiality of the financial information reported on Schedule F-1. Pilgrim and Will's supports RAA's reservations, while ALPA opposes granting confidential treatment at all.

RAA, Mall and Pilgrim feel that since the Board admits in the proposed rule that it cannot ensure confidentiality, it would be harmful to many of the small airlines who are privately owned to release their financial information. Scenic is opposed to the release of the data at all. Henson fears that the rules may be changed in the future and allow disclosure of the data, while Britt feels it would be difficult to keep the data confidential. Atlantic is afraid of internal leaks of the data.

The Board is not persuaded by these arguments. Currently, several pieces of information are maintained on a confidential basis [13] by the Board. There has never been a problem with the release of this data under the Board's guidelines, either with FOIA requests or with internal leaks, and the Board does not contemplate any problems in the future. The Board intends to operate within the proposed guidelines. No one commented that they had any problems with these guidelines. The guidelines could not be changed at the whims of the government, but only with appropriate notice and opportunity for the public to comment.

ALPA commented that withholding individual carrier data from public disclosure for a 3-year period is excessive. ALPA contends that the financial information on Schedule F-1 would lose its competitive value long before the 3 years has expired. ALPA

[13] International Passenger Origin-Destination Survey data, 14 CFR 241.19-7(d); International Service Segment Data, 14 CFR 241.19-6; monthly Form 41, Schedule P-1(a) "Interim Operations Report," 14 CFR 241.22(b)(3); monthly Form 41, Schedule P-12(a) "Fuel Consumption by Type of Service and Specific Operational Markets," 14 CFR 241.24 (Schedule P-12(a)] and Domestic Service Segment Data By Flight Number and Domestic Belly Service Segment Cargo Data, Board Order 81-12-9.

states that it sees no reason for withholding the information for any period of time, since the financial conditions of these smaller carriers needs to be closely monitored in order to ensure that their operations are safe.

The Board is not persuaded by ALPA's argument. As the Board stated in the proposed rule, the apparent fear that their financial information would be publicly disclosed caused many of the small carriers not to comply previously with the Board's voluntary request for financial information. In this case, the carriers were requested to submit financial data to Dun and Bradstreet. Keeping the information confidential for 3 years would allay this fear.

RAA and Henson recommend that an outside source act as collection agent for the government if the Board finds that it must collect the Schedule F–1 financial data. This, they feel, would help preserve the confidentiality of the data. RAA stated it would consider compiling the information on behalf of the CAB and DOT. Henson on the other hand, stated that the Board should allow a private association to collect and consolidate the information on a voluntary basis. If a carrier fails to supply the information, then they would automatically default to mandatory direct reporting. The private association would provide summary data to the government and communicate the names of any carrier who experienced net operating losses over a specified number of quarters.

The Board does not feel that having an outside organization collect the information is a viable process. As mentioned above, this approach was previously tried without success. The Board feels that this procedure would only serve to establish a middleman and prolong the collection process. Further, the Board feels that an outside organization would not be judged a private collector of information by a court of law, but would probably be considered as acting as an agent for the government. Under these circumstances, anyone could still file a FOIA petition with the government and the private collector.

Based on the above conclusions, the Board has decided to withhold for a period of 3 years, the financial data reported on Schedule F–1 "Report of Financial Data."

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96–354) took effect on January 1, 1981. The Act is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, with have a "significant economic impact on a substantial number of small entities." Under the Act, both an increase or decrease in the economic impact must be considered by the agency.

In PS–108, 47 FR 49963, November 4, 1982, the CAB established guidelines for determining which airlines are "small businesses" for the purposes of the Regulatory Flexibility Act. Under the Board's definition, a direct air carrier or foreign air carrier will be considered a "small business" for the purposes of the Board's implementation of the Act if it provides air transportation only with small aircraft (up to 60 seats and/or 18,000 pound payload capacity.) The changes in reporting requirements would affect small certificated air carriers since they fit the definition of "small businesses" within the meaning of the Act. The Board concludes that the reduction of reporting requirements for small certificated carriers will not have a significant economic impact within the meaning of the Act.

The Regulatory Flexibility Analysis must include a description of the need, objectives, legal basis for and flexible alternatives to the proposed action. The first three requirements are met by our prior discussion. We have also considered and rejected the alternative approach of voluntary reporting of financial data. This approach was tried by the Board with commuter carriers, but was not effective because only a small percent of the carriers responded, and the information that was collected could not be used for comparative analysis or for forecasting.

In addition, the analysis must include a description of the small entities to which this proposal would apply, the reporting, recordkeeping and compliance requirements of this proposed rule, and any other rules which may duplicate, overlap or conflict with it. For clarity, we will discuss each group of requirements separately.

The first change would reduce the reporting requirements for small certificated carriers. Small certificated air carriers are those air carriers holding a certificate issued under section 401 of the Federal Aviation Act, as amended, that operate only aircraft with less than 60 seats or 18,000 pounds payload solely for domestic passenger service. Presently, these carriers, of which there are approximately 50, are required to use a Board-mandated accounting system and file Form 41 financial and statistical schedules, service segment data and the Passenger Origin-Destination Survey.[14] An unsubsidized carrier in this group might be required to file as many as 104 schedules each year. If this rule were adopted, small certificated air carriers would file only three quarterly traffic schedules and two quarterly financial schedules, or a total of 20 schedules a year. Under this example, the rule would reduce the reporting burden approximately 80 percent.

The Board already has taken temporary steps to reduce reporting burdens on those carriers. As a transitional measure until the completion of this rulemaking, the Board's Comptroller, under delegated authoriy,[15] has granted waivers to approximately 50 small certificated carriers to file an abbreviated group of reports that are virtually identical to what is being proposed in this rule. Under this rule, there would be little change for these carriers, and consequently no regulatory burden within the meaning of the Act. As a practical matter, the change would significantly affect only a handful of small certificated carriers.

The second rule change would eliminate the reporting of mail and cargo data by commuter carriers operating scheduled passenger service, except for intra-Alaska carriers. This change would relieve a reporting burden on approximately 125 carriers. This information is no longer required from commuter carriers providing only mail and/or cargo service or from certificated carriers because of the virtual deregulation of domestic cargo transportation by Congress and the Board. The information would still be required from intra-Alaska carriers because the information is needed by the Board to set essential air service levels and section 419 subsidy rates. The continuation of this reporting requirement would not be burdensome, because carriers only have to fill out two columns stating the pounds of cargo and mail carried. Many of these carriers benefit directly from providing this information, because it is used to calculate the amount of subsidy they will receive from the government for providing the service. The Board finds that this proposed change would not have a significant economic impact on a substantial number of small entities.

A large number of programs would benefit from this information collection.

[14] Intra-Alaskan certificated air carriers are exempted from filing the Passenger Origin-Destination Survey.

[15] Section 385.27(c) of the Board's Organization Regulations (14 CFR 385.27(c)).

The Board's transferring programs of subsidy, including essential air service, Alaskan mail rates, and fitness. Other Federal agencies would also benefit including DOT/FAA, National Transportation Safety Board, and the Departments of Commerce and Treasury. These Federal agencies use this information to implement a wide variety of programs.

List of Subjects in 14 CFR Part 298

Air taxis, Alaska, Antitrust, Consumer protection, Insurance and Reporting requirements.

Final Rule

PART 298—EXEMPTIONS FOR AIR TAXI OPERATIONS

Accordingly, the Board amends 14 CFR Part 298, *Exemptions for Air Taxi Operations*, as follows:

1. The authority for Part 298 is:

Authority: Secs. 204, 401, 407, 416, 418, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 771, 91 Stat. 1284; 49 U.S.C. 1324, 1371, 1377, 1386, 1388.

2. The Table of Contents is amended by revising the title of Subpart F and the entries for §§ 298.61, 298.64 and 298.65, and adding new §§ 298.60, 298.62, 298.63 and 298.66 to read:

* * * * *

Subpart F—Reporting Requirements

Sec.
298.60 General reporting instructions.
298.61 Reporting of traffic statistics for scheduled passenger operations.
298.62 Reporting of financial data.
298.63 Reporting of aircraft operating expenses and related statistics by small certificated air carriers.
298.64 Reporting of nonscheduled passenger enplanements by small certificated air carriers.
298.65 Requests for extensions of time within which to file reports or for waivers from reporting requirements.
298.66 Reporting exemption for State collection of data.

* * * * * *

3. Section 298.1 is amended by adding the phrase, "and establishes reporting requirements for small certificated air carriers," and the section is revised to read as follows:

§ 298.1 Applicability of part.

This part establishes a classification of air carriers known as "air taxi operators," provides certain exemptions to them from some of the economic regulatory provisions of Title IV of the Federal Aviation Act and specifies procedures by which such air carriers may obtain authority to conduct operations, and establishes rules applicable to their operations in air transportation in all States, Territories and possessions of the United States. [1] This part also authorizes certificated carriers to provide service with small aircraft as if they were air taxi operators and establishes reporting requirements for small certificated air carriers.

4. § 298.2 is revised by adding a new paragraph (x) to read:

§ 298.2 Definitions.

(x) "Small certificated air carrier" means an air carrier holding a certificate issued under section 401 of the Act that provides scheduled passenger air service within and between only the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands with small aircraft as defined in this section.

5. Subpart F—*Requirement for Filing of Flight Schedules and Reports is amended by:*

A. Revising the title of Subpart F to read:

Subpart F—Reporting Requirements

B. Adding a new § 298.60 to read:

§ 298.60 General reporting instructions.

(a) Each commuter air carrier and each small certificated air carrier shall file with the Civil Aeronautics Board the applicable schedules of CAB Form 298-C "Report of Financial and Operating Statistics for Small Aircraft Operators" as required in this section.

(b) A single copy of the CAB Form 298-C report be filed quarterly with the Office of Comptroller for the periods ended March 31, June 30, September 30 and December 31 of each year to be received on or before May 10, August 10, and February 10, respectively. Due dates falling on a Saturday, Sunday or national holiday will become effective on the first following working day.

(c) All reports should be addressed as follows: Data Administration Division; DAI-20, Room 4123; Office of Aviation Information Management; Research and Special Programs Administration; Department of Transportation; 400 Seventh Street, SW.; Washington, D.C. 20590.

(d) All information included in CAB Form 298-C schedules shall be typed or neatly printed.

(e) CAB Form 298-C schedules can be obtained from the above address or by telephone (202) 426-8847.

C. Amending § 298.61, *Reporting of scheduled passenger operations by commuter air carriers*, by revising paragraphs (a), (b), (c), (d), and (e), and paragraph (f)(6), adding a new paragraph (f)(7) and revising the section heading to read as follows:

§ 298.61 Reporting of traffic statistics for scheduled passenger operations.

(a) Each commuter air carrier and each small certificated air carrier shall file CAB Form 298-C, Schedule A-1, "Report of Flight and Traffic Statistics in Scheduled Passenger Operations" and Schedule T-1, "Report of Revenue Traffic by On-Line Origin and Destination."

(b) Schedules A-1 and T-1 shall be filed quarterly as set forth in § 298.60.

(c) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(d) The information included in this report shall pertain only to flights performed in scheduled passenger service during the quarter for which the report is filed.

(e) Schedule A-1 shall be used to report the total flight and traffic statistics in scheduled passenger operations by commuter air carriers and small certificated air carriers. These statistics should cover only scheduled passenger services and should be compiled in accordance with the instructions below. All statistics shall be reported in whole numbers; do not use decimals.

(f) * * *

(6) Column (3) shall show the total number of revenue passengers

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[1] Section 401(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1371(a), prohibits any person from engaging in "air transportation" except to the extent that such person is authorized to do so by the Civil Aeronautics Board or other Federal statute.

Air transportation is defined in the Act (see section 101(10) and (21), 49 U.S.C. 1301) to include the carriage by aircraft of persons or property as a common carrier for compensation or hire. This includes carriage by aircraft as a common carrier between places in the same State (a) through airspace outside that State (over other States or the District of Columbia or the open sea or foreign territory) or (b) where such carriage is part of the movement of the passengers or property carried, in interstate, overseas or foreign air commerce. However, operations wholly within the geographic limits of a single State are not considered "air transportation" if in those operations the carrier transports no more than a *de minimis* volume of passengers or property moving as part of a continuous journey to or from a point outside the State. For a further discussion of what constitutes air transportation see the preamble to ER-574, 34 FR 7124.

Air transportation also is defined to include "the carriage of mail by aircraft." Section 5402 of the Postal Reorganization Act, 39 U.S.C. 5402, authorizes the carriage of mail by air taxi operators in some circumstances under contract with the Postal Service.

This part does not provide exemption from the safety regulatory provisions of the Act which are administered by the Department of Transportation through the Federal Aviation Administration, and air taxi operators in the conduct of their operations must observe all applicable safety standards and requirements.

transported from the point of on-line origin to the point of on-line destination.

(7) Columns (4) and (5) shall be completed only by intra-Alaskan carriers, and shall reflect the total pounds of cargo and pounds of mail, respectively, transported from the point of on-line origin to the point of on-line destination.

* * * * *

D. Adding a new § 298.62 to read:

§ 298.62 Reporting of financial data.

(a) Each small certificated air carrier shall file CAB Form 298–C, Schedule F–1 "Report of Financial Data." This report shall be filed quarterly as set forth in § 298.60.

(b) Each carrier shall indicate the space provided, its full corporate name and the quarter for which the report is filed.

(c) This schedule shall be used to report financial data for the overall or system operations of the carrier. At the option of the carrier, the data may be reported in whole dollars by dropping the cents. Financial data shall be reported in the following categories:

(1) Line 1 "Total Operating Revenues" shall include gross revenues accuring from services ordinarily associated with air transportation and air transportation-related services. This category shall include revenue derived from scheduled service operations, revenue derived from nonscheduled service operations, amounts of compensation paid to the carrier under section 419 of the Federal Aviation Act and other transport-related revenue such as in-flight sales, restaurant and food service (ground), rental of property or equipment, limousine service, cargo pick-up and delivery charges, and fixed-base operations involving the selling or servicing of aircraft, flying instructions, charter flights, etc.

(2) Line 2 "Total Operating Expenses" shall include expenses of a character usually and ordinarily incurred in the performance of air transportation and air transportation services. This category shall include expenses incurred: directly in the in-flight operation of aircraft; in the holding of aircraft and aircraft personnel in readiness for assignment to an in-flight status; on the ground in controlling and protecting the in-flight movement of aircraft; landing, handling or servicing aircraft on the ground; selling transportation; servicing and handling traffic; promoting the development of traffic; and administering operations generally. This category shall also include expenses which are specifically identifiable with the repair and upkeep of property and equipment used in the performance of air transportation, all depreciation and amortization expenses applicable to property and equipment used in providing air transportation services, all expenses associated with the transport-related revenues included on line 1 of this schedule, and all other expenses not specifically mentioned which are related to air transport operations. Interest expense and other nonoperating expenses attributable to financing or other activities which are extraneous to and not an integral part of air transportation or its incidential services shall *not* be included in this category.

(3) Line 3 "Net Income or (Loss)" shall reflect all operating and nonoperating items of profit and loss recognized during the period except for prior period adjustments.

(4) Line 4 "Passenger Revenues-Scheduled Service" shall include revenue generated from the transportation of passengers between pairs of points which are served on a regularly scheduled basis.

(d) Data reported on this form shall be withheld from public release for a period of 3 years after the close of the calendar quarter to which the report relates. Individual carrier financial data withheld from public disclosure may be disclosed by the Board to (1) parties to any proceeding before the Board to the extent such material is relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Board; (2) such persons and in such circumstances as the Board determines to be in the public interest or consistent with its regulatory functions and responsibilities; and (3) agencies and other components of the Federal Government for their internal use only. Aggregate data that does not identify individual carriers may be released prior to the aforementioned time.

E. Adding a new § 298.63 to read:

§ 298.63 Reporting of aircraft operating expenses and related statistics by small certificated air carriers.

(a) Each small certificated air carrier shall file CAB Form 298–C, Schedule F–2 "Report of Aircraft Operating Expenses and Related Statistics." This schedule shall be filed quarterly as prescribed in § 298.60. Data reported on this report shall be for the overall or system operations of the air carrier.

(b) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(c) This schedule shall show the direct and indirect expenses incurred in aircraft operations. Direct expense data applicable to each aircraft type operated by the carrier shall be reported in separate columns of this schedule. Each aircraft type reported shall be identified at the head of each column in the space provided for "Aircraft Type." "Aircraft Type" refers to aircraft models such as Beech–18, Piper PA–32, etc. Aircraft Type designations are prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material*, which is available from the Board's Information Management Division. In the space provided for "Aircraft Code" carriers shall insert the three digit code prescribed in the *Manual of ADP Instructions, Outputs, Codes and Related Material* for the reported aircraft type. (Note: Aircraft of the same type but different cabin configuration may be grouped into a single classification; therefore, carriers are not required to report the fourth digit of an aircraft code indicating cabin configuration.)

(d) Line 1 Direct aircraft operating expenses shall be reported in the following categories:

(1) Line 2 "Flying Operations (Less Rental)" shall be subdivided as follows:

(i) Line 3 "Pilot and Copilot" expense shall include pilots' and copilots' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(ii) Line 4 "Aircraft Fuel and Oil" expense shall include the cost of fuel and oil used in flight operations and nonrefundable aircraft fuel and oil taxes.

(iii) Line 5 "Other" expenses shall include general (hull) insurance, and all other expenses incurred in the in-flight operation of aircraft and holding of aircraft and aircraft operational personnel in readiness for assignment to an in-flight status, which are not provided for otherwise on this schedule.

(2) Line 6 "Total Flying Operations (Less Rentals)" shall equal the sum of lines 3, 4 and 5.

(3) Line 7 "Maintenance-Flight Equipment" shall include the cost of labor, material and related overhead expended by the carrier to maintain flight equipment, general services purchased for flight equipment maintenance from associated or other outside companies, and provisions for flight equipment overhauls.

(4) Line 8 "Depreciation and Rental-Flight Equipment" expense shall include depreciation of flight equipment, amortization of capitalized leases for flight equipment, provision for obsolescence and deterioration of spare

parts, and rental expense of flight equipment.

(5) Line 9 "Total Direct Expense" shall equal the sum of lines 6, 7 and 8.

(e) Line 10 Indirect aircraft operating expenses shall be reported only in total for all aircraft types and shall be segregated according to the following categories:

(1) Line 11 "Flight Attendant Expense" shall include flight attendants' salaries, and related employee benefits, pensions, payroll taxes and personnel expenses.

(2) Line 12 "Traffic Related Expense" shall include traffic solicitor salaries, traffic commissions, passenger food expense, traffic liability insurance, advertising and other promotion and publicity expenses, and the fringe benefit expenses related to all salaries in this classification.

(3) Line 13 "Departure Related (Station) Expense" shall include aircraft and traffic handling salaries, landing fees, clearance, customs and duties, related fringe benefit expenses and maintenance and depreciation on ground property and equipment.

(4) Line 14 "Capacity Related Expense" shall include salaries and fringe benefits for general management personnel, recordkeeping and statistical personnel, lawyers and law clerks, and purchasing personnel; legal fees and expenses; stationery; printing; uncollectible accounts; insurance purchased-general; memberships; corporate and fiscal expenses; and all other expenses which cannot be identified or allocated to some other specifically identified indirect cost category.

(f) Line 15 "Total Indirect Expense" shall equal the sum of lines 11, 12, 13 and 14.

(g) Line 16 "Total Operating Expense" shall equal the sum of lines 9 and 15.

(h) Line 17 "Total Block Hours (Revenue Service)" shall be computed from the time an aircraft first moves under its own power for the purposes of flight in revenue service until it comes to rest at the next point of landing. Data shall be reported by individual aircraft type and total.

(i) Line 18 "Total Departures (Revenue Service)" shall include total takeoffs in revenue service by individual aircraft type and total.

(j) Line 19 "Total Gallons of Fuel Issued" shall include the gallons of fuel used in flight operations related to fuel cost reported in total and by aircraft type on Line 4.

F. Retitling and revising § 298.64, *Requests for extensions of time within which to file reports or for waivers from reporting requirements*, to read:

§ 298.64 Reporting of nonscheduled passenger enplanements by small certificated air carriers.

(a) Each small certificated air carrier shall file CAB Form 298–C, Schedule E–1 "Report of Nonscheduled Passenger Enplanements by Small Certificated Air Carriers." This schedule shall be filed quarterly as prescribed in § 298.60.

(b) Each carrier shall indicate in the space provided its full corporate name and the quarter for which the report is filed.

(c) Enplaned passenger data shall be provided for each airport served in nonscheduled service. Nonscheduled service includes charter flights and other transportation services not constituting an integral part of services performed pursuant to published flight schedules, but does not include flights performed as extra sections to published flight schedules.

(d) In column 1, carriers shall report the full name of each airport served in nonscheduled service.

(e) In column 2, carriers shall report the three-letter airport code found in the "Official Airline Guide" (OAG). If the OAG contains no three-letter code for a point served by the carrier, a three-letter code will be provided by the Civil Aeronautics Board's Information Management Division upon request.

(f) In column 3, carriers shall report the total nonscheduled passengers enplaned at each airport reported in column 1. This column shall be totaled.

G. Retitling and revising § 298.65, *Reporting exemption for State collection of data*, to read:

§ 298.65 Requests for extensions of time within which to file reports or for waivers from reporting requirements.

(a) If circumstances prevent the filing of CAB Form 298–C on or before the due date, a written request for an extension may be submitted. Except in cases of emergency, the request must be delivered to the Board's Office of Comptroller in writing at least three days in advance of the due date. The request must state good and sufficient reason to justify the granting of the extension and the date when the reports can be filed. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(b) The Office of Comptroller may waive any reporting requirements contained in § 298.61, § 298.62, § 298.63 and § 298.64 of this part, upon its own initiative or upon written request from any air carrier if the waiver is in the public interest and the request demonstrates that (1) unusual circumstances warrant such a departure, (2) a specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal, and (3) the application of the alternative procedure will maintain or improve uniformity in reporting between air carriers.

H. Adding a new § 298.66 to read:

§ 298.66 Reporting exemption for State collection of data.

(a) The Office of Comptroller may exempt a commuter air carrier from the reporting requirements of § 298.61 of this part if a State government collects the information specified in that section and provides it to the Board by the dates specified. The data provided to the Board in this manner must be at least as reliable as if they were collected by the Board directly.

(b) The Office of Comptroller will provide assistance to any State agency interested in participating in this exemption program.

§ 298.99 [Reserved]

6. Section 298.99 is removed and reserved.

CAB Form 982–C Report is amended accordingly and is available at the address given under **FOR FURTHER INFORMATION CONTACT.**

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member Schaffer who filed the attached concurring in part and dissenting in part statement.

Schaffer, Member, Concurring in Part and Dissenting in Part

I strongly disagree with the decision of the Board's majority to eliminate the requirement that commuter air carriers file financial information. Among the factors cited by the Department of Transportation which support the need to collect financial data is its value in facilitating the Department's monitoring of commuter fitness and safety. It is difficult to imagine a more compelling justification for the requirement that commuter carriers file this kind of information.

While the inclusion of commuter carriers in the financial data collection program represents an expansion of previous requirements, it is clearly warranted by the substantial growth of the commuter industry over the past several years. The need to effectively and efficiently monitor what has become a major segment of the air transportation industry requires the collection of information that will permit

DOT and the FAA to determine whether carriers have sufficient financial resources on hand to ensure compliance with fitness and safety regulations.

The additional burden imposed on the commuter industry is, in my view, extremely small when compared with the vital public benefits which will be derived from the collection of this information.

Gloria Schaffer

[FR Doc. 84-33849 Filed 12-31-84; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 385

[Reg. OR-217; Organization Regs. Amdt. No.137; Docket 41607]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER-1399, issued simultaneously, the CAB established a three year period of confidentiality for individual carrier financial data reported on CAB Form 298-C, Schedule F-1, "Report of Financial Data." The CAB is delegating to the Chief, Information Management Division, Office of Comptroller, the authority to grant or deny requests for this restricted financial data in accordance with the guidelines contained in ER-1399.

DATES:

Adopted: December 21, 1984.

Effective: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or M. Clay Moritz, Jr., Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D. C. 20428 (202) 673-6042 or after December 31, 1984, Office of Aviation Information Management, Data Requirements and Public Reports Division, DAI-10, Room 4125, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-7372.

SUPPLEMENTARY INFORMATION: In ER-1399, also adopted today, the CAB established a procedure to withhold from public disclosure for a three year period, financial data reported by small certificated air carriers on a new CAB Form 298-C, Schedule F-1, "Report of Financial Data." In the same rule the Board also established certain guidelines under which individual air carrier financial data may be released before the end of the confidential period. For the reasons stated in ER-1399, the CAB delegates authority to the Chief, Information Management Division, Office of Comptroller, to grant or deny requests for data reported by small certificated air carriers on Schedule F-1.

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegations.

Final Rule

PART 385—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Sec. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85-726, as amended; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386. Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, is amended by adding a new paragraph (j) to § 385.28 to read as follows. The introductory text of the section is shown for the convenience of the user and remains unchanged.

§ 385.28 Delegation to the Chief, Information Management Division, Office of the Comptroller.

The Board delegates to the Chief, Information Management Division, Office of the Comptroller, the authority to:

* * * * *

(j) Grant or deny requests for individual air carrier financial data in accordance with the limitations on the availability of these data contained in paragraph (d) of the reporting instructions for Schedule F-1, which are contained in § 298.62 of this chapter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-33850 Filed 12-31-84; 8:45 am]

BILLING CODE 6320-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 31

Regulation of Certain Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Amendments to interim final rules.

SUMMARY: The Commission has determined to amend its interim final rules for certain leverage transactions as published in the **Federal Register** on February 13, 1984 at 49 FR 5498, *et seq.*, most of which appear at 17 CFR Part 31 (1984), so as to encompass and accommodate the regulation of the sale of leverage contracts for the delivery of commodities by customers to leverage transaction merchants ("short leverage contracts"). The amendments to the Commission's interim final rules set forth below are essentially technical in nature and generally involve the insertion of conforming language into those rules so as to accommodate the sale of leverage contracts by customers to leverage transaction merchants ("LTMs") and to regulate such short leverage contracts on essentially the same basis as long leverage contracts, which the interim rules were initially promulgated to regulate.

EFFECTIVE DATE: These amendments to the interim final rules shall become effective on February 1, 1985.

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254-9880; Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254-8955; or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254-6990.

SUPPLEMENTARY INFORMATION: On January 16, 1984, the Commission adopted interim final rules which establish a comprehensive regulatory scheme applicable to specified leverage transactions. *See* 49 FR 5498 (February 13, 1984) for the complete text of the rules. By their terms, these rules as promulgated applied only to the long-term purchase of commodities by leverage customers from LTMs. In particular, § 31.4(w) of the rules defines the term "leverage contract" for purposes of the interim rules to encompass only such commodity purchases by customers (49 FR 5528).

The Commission, in initially proposing the interim rules (including § 31.4(w) substantially in the form adopted), specifically solicited comments on a proposed definition of the term leverage contract. 48 FR 28669 (June 23, 1983). As a result, several commentors raised the issue of whether short sales of leverage contracts should be included in the definition. When the Commission

adopted the interim rules in final form, including § 31.4(w) (which excluded short sales of leverage contracts), it took note of these comments but also indicated that it was generally unaware of any evidence that short sales of leverage contracts were engaged in during any relevant time period, or that such sales were contemplated by Congress to come within the Commission's statutory authority to regulate leverage transactions. 49 FR 5499–5500 (February 13, 1984). At that time, however, the Commission indicated that it would consider the issue further and would seek additional specific public comment concerning short sales in the near future. *Id.*

Shortly thereafter, on March 8, 1984, the Commission in a notice of proposed rulemaking solicited comments concerning whether, and how, the interim final rules could be amended to encompass short sales of leverage contracts. 49 FR 8624. In this notice of proposed rulemaking, detailed and specific comments were sought concerning whether short sales of leverage contracts were contemplated under the Commodity Exchange Act and, if so, what additional customer protections or other amendments to the interim rules would be necessary to accommodate the regulation of the offer and sale of short leverage contracts consistent with the public interest and the anti-fraud, anti-manipulation and financial solvency standards of Section 19 of the Commodity Exchange Act, 7 U.S.C. 23 (1982), which authorizes the Commission to regulate leverage transactions. In this regard, the Commission set forth eleven specific questions upon which it requested comment.

In response to the March 8, 1984 notice of proposed rulemaking, a small number of written comments were received. Subsequently, at a public meeting held on June 12, 1984, the Commission was further advised on the issue of short sales by each of its Operating Divisions. At the conclusion of that meeting, after having reviewed the written comments received in response to its notice of proposed rulemaking and having been advised by its staff, the Commission determined to amend the interim final rules to encompass leverage transactions which provide for the long-term (ten years or longer) sale of commodities by leverage customers to LTMs. The amendments to the interim rules set forth herein will partially accomplish this result.

As noted above, these amendments to the interim rules are generally technical in nature and involve, for the most part, the insertion of conforming language into the interim rules to encompass short sales. Because of the technical nature of these amendments and because they generally impose no new substantive burdens upon persons to whom they apply, the Commission has determined to adopt these amendments without further public comment and to make them effective within 30 days. In addition to these technical amendments, the Commission is also proposing two substantive amendments and two new rules as additions to the interim final rules to accommodate short sales of leverage transactions and to address related issues. A Notice of Proposed Rulemaking concerning these amendments and additions appears elsewhere in this **Federal Register**.

Should any persons believe themselves to be affected adversely by these technical amendments, they may petition the Commission for relief pursuant to § 31.24 of the interim final rules. (49 FR 5541). In addition, persons wishing to comment on these technical amendments may do so in conjunction with comments submitted concerning the Commission's proposed substantive amendments and additions to the interim rules appearing elsewhere in this **Federal Register**. The Commission will re-evaluate these technical amendments in light of any such comments received.

The following is a brief description of the more significant technical amendments which have been made herein to the interim final rules.

Definition of Leverage Contract

The Commission's definition of a leverage contract contained in § 31.4(w) has been amended to reflect short leverage contracts. Specifically, a new provision concerning carrying charges on short leverage contracts has been added. This provision states that carrying charges are paid by the leverage transaction merchant to the customer on the initial value of the short leverage contract plus any margin deposits made in connection with the contract. This corresponds to the treatment of carrying charges on a long leverage contract. In the case of a long leverage contract, the customer has entered into a purchase contract and has not paid the LTM the contract value but has paid the LTM margin deposits. Thus, the customer is charged carrying charges on the amount owed to the LTM, the unpaid balance. Similarly, on a short leverage contract, the customer has entered into a contract to sell a commodity to an LTM and has not been paid by the LTM for the contract value. In addition, the customer has paid the LTM margin deposits. Thus, the LTM pays carrying charges to the customer on the amount owed to the customer, the contract value plus margin deposits. In the Notice of Proposed Rulemaking which appears elsewhere in this **Federal Register**, the Commission is proposing that leverage transaction merchants use the same carrying charge rate on short leverage contracts that they use on long leverage contracts.

Two other technical amendments to the definition of a leverage contract have been made to eliminate confusion. First, the adjective "variable" has been added to the provision dealing with carrying charges described above. The current definition provides for periodic payment by the leverage customer or accrual by the leverage transaction merchant of a carrying charge or fee on the unpaid balance of a long leverage contract. When public comment was solicited on this definition in proposed form, several commenters noted that certain firms offered an instrument which permitted customers to fix in advance and prepay all or a portion of the carrying charges associated with the instrument, and that the practice should be permitted to continue. The Commission, when adopting the definition in the interim final rules, did not amend it to allow such practices and, in fact, stated its continuing belief "that the periodic billing of leverage customers for these leverage fees or carrying charges, which purportedly represent charges for interest, storage and insurance, has long been a common characteristic of leverage contracts." (49 FR at 5499 (February 13, 1984)). Nevertheless, some confusion over this provision of the definition of a leverage contract apparently has continued to exist. Thus, the Commission is now explicitly stating in the definition of a leverage contract contained in Rule 31.4(w) the requirement that carrying charges on leverage contracts be variable, rather than fixed in advance and prepaid. This merely codifies the Commission's previous preamble statement in this regard as referred to above.

The final element of the Commission's definition of a leverage contract as originally adopted stated that a leverage contract provides for the "determination of the contract purchase and repurchase prices by the leverage transaction merchant." Rule § 31.4(w)(6). This provision has been expanded to accommodate short leverage contracts.

Other Definitions

The amendments to the definitions of other terms relevant to the interim rules are essentially technical and conforming

in nature, and some of these amendments were referred to in the Commission's proposed rulemaking notice on short leverage contracts. 49 FR 8624 (March 8, 1984). For example, the definition of leverage customer funds in § 1.3(pp) has been amended to include within that definition accruals to a leverage customer who has entered into a short leverage contract. The profit or loss accuring to a leverage customer on a short leverage contract is the LTM's current ask price for the leverage contract subtracted from the bid price of the leverage contract when entered into. If the current ask price exceeds the bid price at initiation, the leverage customer has a loss, and if the current ask price is less than the bid price at initiation, the leverage customer has a profit.[1] Any profit to the leverage customer increases leverage customer funds and, accordingly, increase the amount of funds which the LTM must segregate on behalf of the leverage customer. *See* § 31.12 and 49 FR 8624, 8626 ("the gain in value in a customer's short position should be required to be segregated on behalf of the customer"). Similarly, the definition of "leverage account equity" in § 31.4(t) has been amended to include a leverage customer's equity based on a short leverage contract. For a long leverage contract, account equity was based on the mark-to-market value of the contract, using the LTM's bid price, less the amount owed to the LTM by the leverage customer. Account equity for a short leverage contract works in reverse—it is based on the amount owed to the leverage customer by the LTM, less the mark-to-market value of the contract using the LTM's ask price.

Several other definitions contained in § 31.4 also required the addition of certain appropriate terms to reflect the fact that they apply in the context of short leverage contracts as well as long leverage contracts. *See* §§ 31.4(d) (leverage customer); 31.4(g) (leverage commodity); 31.4(h) (ask price); 31.4(i) (bid price); 31.4(l) (carrying charges); 31.4(m) (termination charges); 31.4(o) (repurchase, and now also resale, of a leverage contract); 31.4(p) (delivery) and 31.4(x) (leverage transaction).

[1] An LTM operating with a bid-ask spread will normally be offering to resell a short leverage contract at a higher price than it is offering to enter into a new short leverage contract; that is, the ask price will be higher than the bid price. Therefore, a leverage customer entering into a short leverage contract with such an LTM will accrue a loss equal to the bid-ask spread on the short leverage contract immediately upon entry into the contract. A similar situation occurs upon entry into a long leverage contract.

Moratoria Compliance

The Commission has determined not to amend § 31.5(e), which sets forth the requirements necessary to demonstrate compliance with the Commission's temporary moratoria on leverage transactions set forth in §§ 31.1 and 31.2. Accordingly, an LTM will be permitted to offer a short leverage contract involving any leverage commodity for which it can offer a long leverage contract in accordance with the moratoria. That is, an LTM will not be required to demonstrate separately that it was offering a short leverage contract involving a leverage commodity on which it was offering long leverage contracts in accordance with the moratoria in order to be able to offer the short contract.

Registration of Leverage Commodities, Leverage Transaction Merchants and their Associated Persons

Except for technical amendments to Rule 31.6 which were made to incorporate reference to short sales of leverage contracts in the registration application requirements, no other amendments to this Rule have been made. In view of the Commission's determination that an LTM will not be required to demonstrate that it was engaged in the offering of short leverage contracts as well as long leverage contracts in the commodity for which registration is being sought, separate applications for registration of short and long leverage commodities need not be submitted pursuant to Rule 31.6. However, if short leverage contracts are contemplated in the commodity for which registration is sought and the application does not address the amended requirements of Rule 31.8 for short leverage contracts for the commodity in question, the prospective LTM must supplement its registration application as appropriate.

The Commission has also determined that no changes are necessary with respect to the registration of LTMs or their associated persons as a result of the addition of short leverage contracts, and thus has not amended Parts 3 or 4 of its regulations.

Financial Requirements

As the Commission stated in its proposed rulemaking notice on short leverage contracts, an LTM's purchase of a leverage contract from a leverage customer in a short leverage transaction does not constitute cover for an LTM's obligations to leverage customers under long leverage transactions. 49 FR 8624, 8626. An LTM's cover requirements for its obligations on long leverage contracts are set forth in § 31.8. Ninety percent of the amount of physical commodities subject to open leverage contracts must be covered, twenty-five percent of the total amount of the LTM's obligations must be covered with physicals, and the remainder of the LTM's cover can consist of long futures or in-the-money exchange-traded call option contracts. There can be no physical component for an LTM's cover of short leverage contracts, because it is the leverage customer's obligation to make delivery to the LTM under such a contract, and a long leverage contract cannot cover a short leverage contract. Accordingly, permissible cover for short leverage contracts, which must amount to at least ninety percent of the LTMs' obligations on short leverage contracts, is limited to short futures or in-the-money exchange-traded put option contracts. *See* amended paragraph (a)(2) and new paragraph (a)(3) of § 31.8.

In connection with the amendments to § 31.8 with respect to cover of short leverage contracts, the Commission has amended § 31.12(b) to allow an LTM to use leverage customer funds to obtain permissible cover for short leverage contracts. The Commission has also amended § 1.46 by adding a new paragraph (d)(5) which creates an additional exemption to the general rule requiring the closing out of offsetting long and short positions. Under the new exemption, an LTM can hold open offsetting long and short futures constituting cover of its obligations to leverage customers. This exemption takes account of the fact that an LTM may be simultaneously on the opposite side of similar leverage contracts, some of which are long and some of which are short, and be required to cover these leverage contracts separately by means of offsetting futures contracts. The Commission has also amended Form 2-FR, the financial reporting form for LTMs, to include separate Schedules of Coverage Requirements and Coverage Provided for long and short leverage contracts.[2] Revised copies of Form 2-FR will be sent to the three firms which have filed applications for registration as an LTM, and other persons interested in receiving a copy may contact the Commission. A copy of the revised form also appears at the end of this release.

The Commission has also made two minor technical amendments to § 31.7(c) regarding the financial early warning

[2] LTMs are also reminded that § 31.8(c), which has not been amended, requires them to keep a daily record of required cover and of cover actually maintained in a format identical to the Schedule of Coverage Requirements and Coverage Provided contained in Form 2-FR.

system for LTMs. Since those provisions of § 1.12, the financial early warning system for futures commission merchants and introducing brokers, which are incorporated by reference in § 31.7 are phrased in terms of "applicant or registrant," § 31.7(c) has been amended to make clear that the term leverage transaction merchant should be read into those paragraphs in lieu of "applicant or registrant," rather than "futures commission merchant." The second amendment to § 31.7(c) makes clear that an applicant for registration as an LTM is not required to send early warning notices to the National Futures Association ("NFA"). Since NFA will shortly assume most of the Commission's registration processing functions except for those relating to LTMs and their associated persons, § 1.12 now requires applicants for registration to send a copy of any early warning notice to NFA. *See* 49 FR 39518 (October 9, 1984) and 49 FR 39593 (October 9, 1984).

The Commission has, at this time, made no amendments to the minimum financial requirements for LTMs (§ 31.9)[3] or the financial reporting requirements (§ 31.13).

Disclosure

The Commission has made several technical, conforming changes to the disclosure requirements set forth in § 31.11, which are designed to ensure that a leverage customer receives similar information about long and short leverage contracts. These amendments are contained in the required bold-faced risk disclosure statement set forth in paragraph (a)(1) as well as in paragraphs (a)(5) (i) and (ii) of § 31.11. The Commission also notes that § 31.11(a)(2)(viii) has been amended to require that an LTM's Disclosure Document include a statement to the effect that the LTM may be unwilling to accept delivery and pay for the leverage commodity where metal or bulk coins are involved without first requiring an inspection or assay at the expense of the short leverage customer, and a description of any other requirements applicable to the delivery of a leverage commodity by a leverage customer to an LTM in connection with a short leverage contract. In addition, a new paragraph (k)(2) has been added to § 31.11 which governs the Confirmation Statement for a short leverage transaction.

To date, Commission Rule 31.11 governing disclosure requires the Disclosure Document to contain an Illustrative Transaction for a long leverage contract that includes the calculation of a break-even price, which indicates the change in price necessary, in absolute and in percentage terms, before a leverage customer can realize a profit on the long leverage contract offered by that LTM. Elsewhere in this **Federal Register** the Commission is publishing for comment a proposal to delete the illustrative transaction format for a long leverage transaction which is now required by Rule 31.11 to be included in the Disclosure Document, and to substitute a new Confirmation Statement applicable to both long as well as short leverage transactions. Under this proposal, a completed version of this proposed new Confirmation Statement reflecting a sample long leverage transaction would be required to be included in the Disclosure Document employed by LTM offering long leverage transactions. Similarly, the proposal would require LTMs offering short leverage transactions to include in their Disclosure Documents a completed version of this proposed new Confirmation Statement reflecting a sample short leverage transaction. The proposal would also require that the new Confirmation Statement, completed to contain information relating to a customer's long or short leverage contract, be sent by an LTM to a customer subsequent to the customer's entry into such a leverage contract with that LTM.

At this time, the Commission is adopting in final form only certain revisions to the language contained in the bold-faced portion of the risk disclosure statement required by paragraph (a)(1) of Rule 31.11, and a new paragraph (k)(2) of that Rule which requires that a Confirmation Statement for short leverage transactions be sent to customers within 24 hours of the entry into such contracts, including a new bold-faced statement regarding rescission rights for first-time short leverage contract customers. These new requirements contained in paragraph (k)(2) for short leverage contracts generally mirror those currently set forth in paragraph (k)(1) for long leverage contracts. The Commission notes that it would consider an LTM to be in compliance with the requirements of Rule 31.11(a)(3) and (k)(1) and (k)(2) concerning the Illustrative Transaction for long leverage contracts and the Confirmation Statements for long and short leverage contracts should that LTM, at this time, determine to employ a Confirmation Statement in a format like that proposed elsewhere in this **Federal Register** and discussed above, and to incorporate such a Confirmation Statement into its Disclosure Document.

Recordkeeping and Reporting to Leverage Customers

The Commission has amended § 31.14 (b)(1)(, (c)(1), (2) and (3), (d) and (d)(6) of its recordkeeping rule for LTMs to ensure that LTMs will keep appropriate records with respect to short leverage transactions as well as long leverage transactions.

The Commission's amendments to § 31.15 with respect to reporting to leverage customers are designed to ensure that an LTM provides a leverage customer with the same type of statement whenever any leverage contract is closed-out (paragraph (a)), and to ensure that an LTM's monthly statement to a leverage customer includes the same information with respect to long and short leverage contracts (paragraphs (b) (1) and (2)).

The Commission has amended § 31.17(c) of its LTM recordkeeping requirements so that the term "order" will also apply to orders related to short leverage contracts. The Commission has also amended § 31.17(d) to require an LTM's price change register to include bid and ask prices for short as well as long leverage contracts.

Monthly Reporting Requirements

Section 31.16 establishes the form and content of reporting requirements for leverage transaction merchants. Under this rule, LTMs are required to submit monthly reports to the Commission on CFTC Forms 188 and 189. These forms have now been modified to accommodate short leverage contracts. CFTC Form 188 has been divided into two parts for clarity, with CFTC Form 188A being used for long leverage contracts and CFTC Form 188B being used for short leverage contracts. CFTC Forms 188A, 188B, and 189 have been changed to reflect the new name of the Division of Economic Analysis (formerly the Division of Economics and Education). Copies of these amended forms appear at the end of this release.

Elsewhere in this **Federal Register** the Commission is proposing that LTMs use the same bid and ask prices for long and short leverage contracts.[4] Should an

[3] In a separate release published elsewhere in this **Federal Register**, the Commission is proposing to amend § 31.9(a) to increase the minimum financial requirement for an LTM by an amount equal to 2.5 percent of the market value of the amount of physical commodities subject to short leverage contracts entered into by the LTM which are covered.

[4] The Commission requested comments on this issue in its notice of proposed rulemaking

Continued

LTM currently be using different bid and ask prices for long and short leverage contracts, that LTM must file two CFTC Form 189s each month, one clearly marked as reflecting prices for long leverage contracts and one marked as applicable to short leverage contracts. Should the bid and ask prices being employed by an FCM be the same for both long and short leverage contracts, that LTM should file a single Form 189 each month.

Margin Calls

The only amendments to § 31.18 regarding margin calls relate to the second proviso in paragraph (b) with respect to re-establishing a leverage position following liquidation. The first amendment permits a short leverage customer to re-establish the position at the then prevailing ask price, which is consistent with a long leverage customer's ability to re-establish at the then prevailing bid price. The Commission has also clarified that rule to make clear that no transaction costs can be assessed in connection with the re-establishment of such a liquidated position. Accordingly, if a termination charge was assessed upon liquidation of the position, such a charge must be rescinded upon re-establishment of the position.

Rescission

Commission Rule 31.23 currently prescribes language in the Disclosure Document stating a customer's right to rescind his first leverage transaction. As noted above, the prescribed language has been modified to accommodate short leverage contracts by the addition of a new § 31.11(k)(2)(i) for short leverage contracts. That section parallels § 31.11(k)(1)(i) for long leverage contracts by providing that actual losses on a short leverage contract are calculated by subtracting the bid price at which the leverage contract was initially sold to the leverage transaction merchant from the bid price at the time of the customer's rescission.

Additional Provisions

The Commission has also amended § 31.10 which generally requires that an LTM may not offer to enter into or enter into long leverage contracts in a commodity at any time that the LTM is not offering to repurchase from its customers any such leverage contracts involving that commodity. The amendment incorporates short sales into this rule so as to make clear that when an LTM is offering to enter into or entering into short leverage contracts in a commodity with customers, the LTM must, at that time, also be offering to resell any such short contracts in that commodity to its customers. However, an LTM may, of course, be offering to sell or selling long leverage contracts in a commodity without also offering to purchase or purchasing short leverage contracts in that commodity, and vice versa.

Regulatory Flexibility Act

In promulgating the interim final rules, the Chairman, on behalf of the Commission, certified pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that the adoption of the rules would not appear to affect a substantial number of small firms or entities. As a result, the Commission believes that the technical amendments to these rules set forth herein will similarly not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Commission has previously received the approval of the Director of the Office of Management and Budget, pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), of the information collection and recordkeeping requirements implemented by the interim final rules. The Commission believes that the technical amendments adopted herein do not significantly increase those information collection and recordkeeping requirements. In any event, since any additional such requirements imposed by these amendments would affect less than ten persons (only three persons or entities have sought registration with the Commission as LTMs under the interim final rules), the requirements of the Paperwork Reduction Act do not apply *See* 44 U.S.C. § 3502(4) (1982).

List of Subjects

17 CFR Part 1

Commodity futures.

17 CFR Part 31

Consumer protection, Fraud, Recordkeeping and reporting requirements.

In consideration of the foregoing, and pursuant to the authority contained in sections 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C 12A(5) and 23 (1982), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 is amended by revising paragraph (pp) to read as follows:

§ 1.3 Definitions.

* * * * *

(pp) "Leverage customer funds" means all money, securities and property received, directly or indirectly by a leverage transaction merchant from, for, or on behalf of leverage customers to margin, guarantee or secure leverage contracts and all money, securities and property accruing to such customers as the result of such contracts, or the customers' leverage equity. In the case of a long leverage transaction, profit or loss accruing to a leverage customer is the difference between the leverage transaction merchant's current bid price for the leverage contract and the ask price of the leverage contract when entered into. In the case of a short leverage transaction, profit or loss accruing to a leverage customer is the difference between the bid price of the leverage contract when entered into and the leverage transaction merchant's current ask price for the leverage contract.

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2. Section 1.46 is amended by adding paragraph (d)(5) to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

* * * * *

(d) * * *

(5) Purchases or sales made by a leverage transaction merchant constituting cover of its obligations to leverage customers and made in accordance with §§ 31.8(a) and 31.12(b) of this chapter.

PART 31—LEVERAGE TRANSACTIONS

3. Section 31.4 is amended by revising paragraphs (d), (g), (h), (i), (l), (m), (o), (p), (t), (w), and (x) to read as follows:

§ 31.4 Definitions.

* * * * *

(d) "Leverage customer" means any person who, directly or indirectly, enters into, purchases, sells, or otherwise acquires for value any interest in a leverage contract with, from, or to a leverage transaction merchant;

* * * * *

(g) "Leverage commodity" means a commodity which is the subject of a

concerning the regulation of short leverage contracts (49 Fr 8624, 8625 (March 8, 1984)), and the commenters who addressed this issue, including the three applicants for registration as an LTM, generally supported that idea.

leverage contract offered for purchase or sale, or purchased or sold, by a particular leverage transaction merchant, the value of which is reflected in a widely accepted and broadly disseminated commercial or retail cash price series for cash market transactions, which price series reasonably reflects the price for the leverage commodity which the customer can expect to pay or receive in normal commercial or retail market channels, including, if applicable, specified premiums or discounts; each leverage commodity is defined by reference to the following distinguishing characteristics:

(1) For gold and silver bullion and gold and silver bulk coins:

(i) The nominal size, composition and tolerable ranges of the delivery pack or the actual size, composition and tolerable range of the component of the delivery pack;

(ii) Minimum guaranteed quality, deliverable countries of origin, deliverable markings or imprints, and deliverable refiners or mints;

(iii) The method of pricing; and

(iv) The delivery specifications or alternatives including type and location of delivery facilities, packaging, transportation, registration and associated costs.

(2) For platinum, electrolytic copper cathodes, electrolytic copper in wire bars, cakes, slabs, billets, ingots or ingot bars, for lake copper in the same forms, for fire-refined copper in the same forms, and for fire-refined high conductivity copper in ingots or ingot bars, the same distinguishing characteristics as set forth in § 31.4(g)(1) apply.

(3) For Deutsche marks, Japanese yen, Swiss, francs, and British pounds:

(i) The amount and country of origin;

(ii) The delivery specifications or alternatives including:

(A) The manner of delivery and delivery point if hand-to-hand currency;

(B) The manner of delivery, delivery point, bank and branch on which drawn, and type of draft if bank draft; or

(C) The required payment instructions if a deposit to a leverage customer's foreign demand account for a long leverage contract or a deposit to a leverage transaction merchant's foreign demand account for a short leverage contract.

(h) "Ask price of a leverage contract" means the price at which a leverage transaction merchant sells or is willing to sell a long leverage contract to a leverage customer or the price at which a leverage transaction merchant resells or is willing to resell a short leverage contract to a leverage customer;

(i) "Bid price of a leverage contract" means the price at which a leverage transaction merchant purchases or is willing to purchase a short leverage contract from a leverage customer, or the price at which a leverage transaction merchant repurchases or is willing to repurchase a long leverage contract from a leverage customer;

* * * * *

(l) "Carrying charges for a leverage contract" includes all service and interest changes paid periodically by a leverage customer to a leverage transaction merchant, or accrued by a leverage transaction merchant, while a long leverage contract remains open, or all service and interest charges paid periodically by a leverage transaction merchant to a leverage customer, or accrued by a leverage customer, while a short leverage contract remains open;

(m) "Termination charges for a leverage contract" includes all fees and commission payable to a leverage transaction merchant which are associated with the liquidation, repurchase, resale or settlement by delivery on a leverage contract;

* * * * *

(o) "Repurchase or resale of a leverage contract" means the voluntary termination of a leverage contract by mutual agreement between the leverage customer and the leverage transaction merchant, which agreement is effected by entering into a transaction which is the opposite of the initial transaction. A repurchase by a leverage transaction merchant takes place if the initial transaction by the leverage customer was a purchase of a long leverage contract from the leverage transaction merchant, and a resale by a leverage transaction merchant takes place if the initial transaction by the leverage customer was a sale of a short leverage contract to the leverage transaction merchant;

(p) "Delivery on a leverage contract" means the making (in the case of an initial sale by a leverage customer) or taking (in the case of an initial purchase by a leverage customer) of delivery by a leverage customer of the commodity subject to a leverage contract;

* * * * *

(t) "Leverage account equity" means:

(1) For all long leverage contracts in a leverage customer's account, the amount equal to the aggregate value of such leverage contracts in the leverage customer's account, based on the leverage transaction merchant's current bid prices for such contracts, less the amount owed to the leverage transaction merchant by the leverage customer pursuant to such contracts; and

(2) For all short leverage contracts in a leverage customer's account, the aggregate amount owed to the leverage customer by the leverage transaction merchant pursuant to all such contracts less the amount equal to the value of all such leverage contracts in the leverage customer's account, based on the leverage transaction merchant's current ask prices for such contracts;

* * * * *

(w) "Leverage contract" means a contract, standardized as to terms and conditions, for the long-term (ten years or longer) purchase ("long leverage contract") or sale ("short leverage contract") by a leverage customer of a leverage commodity which provides for:

(1) Participation by the leverage transaction merchant as a principal in each leverage transaction;

(2) Initial and maintenance margin payments by the leverage customer;

(3) Periodic payment by the leverage customer or accrual by the leverage transaction merchant of a variable carrying charge or fee on the unpaid balance of a long leverage contract, and periodic payment or crediting by the leverage transaction merchant to the leverage customer of a variable carrying charge or fee on the initial value of the contract plus any margin deposits made by the leverage customer in connection with a short leverage contract;

(4) Delivery of a commodity in an amount and form which can be readily purchased and sold in normal commercial or retail channels;

(5) Delivery of the leverage commodity after satisfaction of the balance due on the contract; and

(6) Determination of the contract purchase and repurchase, or sale and resale prices by the leverage transaction merchant; and

(x) "Leverage transaction" means the purchase or sale of any leverage contract, the repurchase or resale of any leverage contract, the delivery of the leverage commodity, or the liquidation or rescission of any such leverage contract by or to the leverage transaction merchant.

4. Section 31.6 is amended by revising paragraphs (a), (b), (c) and (f) to read as follows:

§ 31.6 Registration of leverage commodities.

(a) *Registration of leverage commodities.* Each leverage commodity upon which a leverage contract is offered for sale or purchase or is sold or purchased by a particular leverage

transaction merchant must be separately registered with the Commission. Registration will be granted only when the following conditions are, and continue to be, met:

(1) The person requesting registration of a leverage commodity is a registered leverage transaction merchant or is permitted to continue in business pending registration in accordance with § 31.5(c);

(2) The commodity to be registered is a leverage commodity as defined in § 31.4(g);

(3) There exists a widely accepted and broadly disseminated commercial or retail cash price series for the commodity;

(4) The commodity can be readily purchased or sold in normal commercial or retail channels by leverage customers making or taking delivery on a leverage contract; and

(5) The terms and conditions of the leverage contracts based on the leverage commodity are consistent with the Act and the regulations thereunder, and are not contrary to the public interest.

(b) *Application for registration.* Applications to register leverage commodities should be filed with the Commission at its Washington, D.C., headquarters, Attn: Secretariat. Three copies of each such submission should be filed. The Commission may return any application which does not comply with the form and content requirements of this section. Each applicant must:

(1) Provide evidence that the person applying for registration of the leverage commodity is registered, or is permitted to continue in business pending registration in accordance with § 31.5(c), or has applied to the Commission for registration as a leverage transaction merchant;

(2) Provide an explanation of the distinguishing characteristics of the leverage commodity for which registration is sought, including a complete description of the cash market for the leverage commodity, and for the spot, forward, and futures markets for the generic commodity;

(3) Specify a commercial or retail cash price series including prevailing premiums or discounts governing cash market transactions in the quantities specified by the leverage contract and justify the use of such price series with respect to the particular leverage commodity for which registration is sought;

(4) Provide evidence and a complete evaluation of how the distinguishing characteristics of the leverage commodity would be expected to affect the ability of leverage customers electing to make or take delivery of the commodity at an economic price in normal cash market channels;

(5) Include a description of the commodity inspection and/or certification procedures typically required for commercial or retail sales of the specified commodity. Such description must be accompanied by information regarding the availability of any normally required certification or inspection service at the delivery points including those of the leverage transaction merchant; and

(6) Include copies of all leverage contracts which are to be offered by the leverage transaction merchant on the leverage commodity.

(c) *Continuing registration of leverage commodities.* A registered leverage transaction merchant must be submit to the Commission for its review, at least forty-five (45) days before their effective date, any proposed changes in the specifications of the leverage commodity and the terms and conditions of the leverage contract from those submitted as part of the registration application unless such contract specifically provides that such terms and conditions are subject to change. Three copies of each such submission must be furnished to the Commission at its Washington, D.C. headquarters. Attn: Secretariat. The Commission may return any submission which does not comply with the form and content requirements of this section. Each such submission must, in the following order:

(1) Explain how any such changes might affect the ability of leverage customers to realize the leverage commodity's economic value and how such amendments might affect the ability of leverage customers making or taking delivery to buy or sell the leverage commodity;

(2) Explain the effect of such changes upon the continued appropriateness of the commercial or retail cash price series submitted pursuant to paragraph (b)(3) of this section, or, as an alternative, submit a new price series and a justification of its use; and

(3) Indicate whether, if such changes are applied to existing leverage commodities, there will be a change in the economic value of such commodities and, if so, quantify the extent of such changes.

* * * * *

(f)(1) The Commission hereby delegates to the Director of the Division of Economic Analysis until such time as the Commission orders otherwise, all functions reserved to the Commission in paragraphs (b) and (c) of this section.

(2) The Director of the Division of Economic Analysis may submit any matter which has been delegated to the Director under paragraph (f)(1) of this section to the Commission for its consideration.

5. Section 31.7 is amended by revising paragraph (c) to read as follows:

§ 31.7 Maintenance of minimum financial, cover and segregation requirements by leverage transaction merchants.

* * * * *

(c) The requirements of §§ 1.12(c), 1.12(d), 1.12(e) and 1.12(g) of this chapter shall apply to registered leverage transaction merchants and to persons who have applied for registration as leverage transaction merchants, as if in those paragraphs the term "leverage transaction merchant" were substituted for the phrase "applicant or registrant," except that persons who have applied for registration as leverage transaction merchants are not required to send notices required to be filed under this section to the National Futures Association.

6. Section 31.8 is amended by revising paragraph (a) to read as follows:

§ 31.8 Cover of leverage contracts.

(a)(1) Each leverage transaction merchant must at all times maintain cover of at least 90 percent of the amount of physical commodities subject to open long leverage contracts entered into with leverage customers, and must at all times also maintain cover of at least 90 percent of the amount of physical commodities subject to open short leverage contracts entered into with leverage customers. At least 25 percent of the amount of physical commodities subject to open long leverage contracts must be covered by the types of permissible cover set forth in paragraph (a)(2) (i) and (ii) of this section.

(2) Permissible cover for a long leverage contract is limited to:

(i) Warehouse receipts for the leverage commodity subject to the leverage contract held in commercial banks located in the United States or in approved contract market depositories: *Provided,* That the balance of the principal and accrued interest on any loan against such warehouse receipts does not exceed 70 percent of the current market value of the commodity represented by each receipt.

(ii) Warehouse receipts for gold bullion in the case of leverage contracts for bulk gold coins, bulk gold coins in the case of leverage contracts for gold bullion, silver bullion in the case of leverage contracts on bulk silver coins

and bulk silver coins in the case of leverage contracts on silver bullion, which are held in commercial banks located in the United States or in approved contract market depositories: *Provided*, That the balance of the principal and accrued interest on any loans against such warehouse receipts does not exceed 70 percent of the current market value of the commodity for which it represents cover.

(iii) (A) Purchases for future delivery on or subject to the rules of the contract market of the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section; or

(B) Purchase of call commodity options for the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section, on or subject to the rules of a contract market in accordance with the provisions of Part 33 of this chapter: *Provided*, That the market value of the actual commodity or futures contract which is the subject of such option is more than the value of the underlying commodity based on the strike price of the option.

(3) Permissible cover for a short leverage contract is limited to:

(i) Sales for future delivery on or subject to the rules of a contract market of the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section; or

(ii) Purchases of put commodity options for the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section, on or subject to the rules of a contract market in accordance with the provisions of Part 33 of this chapter: *Provided*, That the market value of the actual commodity or futures contract which is the subject of such option is less than the value of the underlying commodity based on the strike price of the option.

* * * * *

7. Section 31.10 is revised to read as follows:

§ 31.10 Repurchase and resale of leverage contracts by leverage transaction merchants.

(a) No leverage transaction merchant shall offer to sell or sell a long leverage contract involving a leverage commodity to any leverage customer at any time when such leverage transaction merchant is not offering to repurchase from any of its leverage customers any long leverage contract involving the same leverage commodity previously sold by the leverage transaction merchant to a leverage customer.

(b) No leverage transaction merchant shall offer to purchase or purchase a short leverage contract involving a leverage commodity from any leverage customer at any time when such leverage transaction merchant is not offering to resell to any of its leverage customers any short leverage contract involving the same leverage commodity previously purchased by the leverage transaction merchant from a leverage customer.

8. Section 31.11 is amended by revising paragraphs (a) and (k) to read as follows:

§ 31.11 Disclosure.

(a) Except as provided in paragraph (i) of this section, prior to the opening of a leverage customer account, a leverage transaction merchant soliciting an order for any leverage contract shall furnish to the prospective leverage customer a dated Disclosure Document and receive from such prospective leverage customer a signed and dated copy of the risk disclosure statement contained in such document which acknowledges that the customer received and understood the Disclosure Document. The Disclosure Document shall contain then current information with respect to the leverage contract being offered by the person soliciting the order therefor, and shall contain:

(1) The following bold-faced risk disclosure statement in at least ten-point type on the first page of the Disclosure Document:

BECAUSE OF THE UNPREDICTABLE NATURE OF THE PRICES OF PRECIOUS AND OTHER METALS AND FOREIGN CURRENCIES, LEVERAGE CONTRACTS INVOLVE A HIGH DEGREE OF RISK AND ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. THE LEVERAGE CUSTOMER SHOULD BE AWARE THAT THE VALUE OF A LEVERAGE CONTRACT ORIGINALLY PURCHASED BY A CUSTOMER ("LONG LEVERAGE CONTRACT") MUST EXCEED THE BREAK-EVEN PRICE BEFORE IT IS POSSIBLE TO REALIZE A PROFIT ON THE CONTRACT. SIMILARLY, THE VALUE OF A LEVERAGE CONTRACT ORIGINALLY SOLD BY A LEVERAGE CUSTOMER ("SHORT LEVERAGE CONTRACT") MUST BE LESS THAN THE BREAK-EVEN PRICE BEFORE IT IS POSSIBLE TO REALIZE A PROFIT ON THE CONTRACT. AN ILLUSTRATIVE BREAK-EVEN CALCULATION FOR A LONG LEVERAGE CONTRACT IS ATTACHED TO THIS DOCUMENT. YOU ARE ENTITLED TO RECEIVE A CALCULATION OF THE BREAK-EVEN PRICE FOR YOUR PARTICULAR LONG LEVERAGE CONTRACT PURCHASE WITH YOUR CONFIRMATION.

YOU SHOULD ALSO UNDERSTAND THAT THE CHARGES FOR SIMILAR LEVERAGE CONTRACTS MAY VARY AMONG LEVERAGE FIRMS, AND THAT SUCH FIRMS HAVE COMPLETE DISCRETION IN SETTING THEIR CHARGES AND THE PRICE OF THE LEVERAGE CONTRACTS THEY OFFER. PRIOR TO ENTERING INTO ANY LEVERAGE CONTRACT A PROSPECTIVE LEVERAGE CUSTOMER SHOULD COMPARE THE CHARGES AND PRICES OF SUCH FIRMS WITH EACH OTHER AND WITH THE COMMISSIONS FOR AND PRICES OF FUTURES CONTRACTS TRADED ON DESIGNATED EXCHANGES.

YOU SHOULD ALSO BE AWARE THAT YOU ARE SUBJECT TO MARGIN CALLS. THE LEVERAGE FIRM RESERVES THE RIGHT TO LIQUIDATE YOUR POSITION IF YOU DO NOT RESPOND TO A MARGIN CALL WITHIN THE TIME SPECIFIED IN YOUR LEVERAGE AGREEMENT. IN ANY EVENT, IF THE EQUITY IN YOUR CONTRACT AT ANY TIME FALLS BELOW 50% OF THE MINIMUM MARGIN, YOUR CONTRACT MAY BE LIQUIDATED WITHOUT PRIOR NOTICE. YOU MUST, HOWEVER, BE NOTIFIED OF LIQUIDATION WITHIN NO MORE THAN 24 HOURS THEREAFTER AND PERMITTED TO REESTABLISH YOUR CONTRACT FOR A PERIOD OF 5 BUSINESS DAYS. LEVERAGE CONTRACTS PURCHASED FROM A LEVERAGE TRANSACTION MERCHANT ARE RE-ESTABLISHED AT THE THEN PREVAILING BID PRICE AND LEVERAGE CONTRACTS SOLD TO A LEVERAGE TRANSACTION MERCHANT ARE RE-ESTABLISHED AT THE THEN PREVAILING ASK PRICE WITHOUT COMMISSIONS, FEES OR OTHER MARK-UPS OR CHARGES UNDER RULES SET BY THE COMMODITY FUTURES TRADING COMMISSION, AS MORE COMPLETELY DESCRIBED IN THIS DISCLOSURE DOCUMENT. IN CASE OF LIQUIDATION, ALL OF YOUR FUNDS MAY BE USED TO SETTLE THE DEFICIT IN THE ACCOUNT, AND YOU MAY BE LIABLE FOR ADDITIONAL FUNDS TO SETTLE IN FULL.

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE TRANSACTION SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING THE DAY OF RECEIPT OF THE CONFIRMATION.

YOU SHOULD BE AWARE THAT IN ORDER TO REALIZE ANY VALUE FROM A LONG LEVERAGE CONTRACT, THE LEVERAGE TRANSACTION MERCHANT WHICH SOLD YOU THE LEVERAGE CONTRACT MUST REPURCHASE IT, OR YOU MUST PAY THE LEVERAGE TRANSACTION MERCHANT THE FULL PURCHASE PRICE FOR THE LEVERAGE CONTRACT, TAKE DELIVERY OF THE LEVERAGE COMMODITY, AND THEN SELL THE LEVERAGE COMMODITY, POSSIBLY AT A LOWER PRICE THAN THE PRICE PAID TO PURCHASE THE LEVERAGE COMMODITY FROM THE LEVERAGE TRANSACTION MERCHANT. YOU SHOULD ALSO BE AWARE THAT IN ORDER TO REALIZE ANY VALUE FROM A SHORT LEVERAGE CONTRACT, THE LEVERAGE TRANSACTION MERCHANT TO WHICH YOU SOLD THE LEVERAGE CONTRACT MUST RESELL IT TO YOU, OR YOU MUST ACQUIRE THE LEVERAGE COMMODITY IN ORDER TO MAKE DELIVERY TO THE LEVERAGE TRANSACTION MERCHANT, POSSIBLY AT A HIGHER PRICE THAN THE PRICE YOU WILL RECEIVE FROM THE LEVERAGE TRANSACTION MERCHANT.

THERE IS NO MARKET FOR THE LEVERAGE CONTRACT ITSELF OTHER THAN TO HAVE IT REPURCHASED BY OR RESOLD TO THE LEVERAGE TRANSACTION MERCHANT. A LEVERAGE TRANSACTION MERCHANT IS UNDER NO OBLIGATION TO OFFER TO REPURCHASE OR RESELL A LEVERAGE CONTRACT AT ALL TIMES. ALTHOUGH THE LEVERAGE TRANSACTION MERCHANT MUST OFFER TO REPURCHASE ANY LONG LEVERAGE CONTRACT PREVIOUSLY PURCHASED BY A LEVERAGE CUSTOMER AT ANY TIME DURING WHICH THE LEVERAGE TRANSACTION MERCHANT IS OFFERING TO ENTER INTO SUCH PURCHASES BY ITS CUSTOMERS INVOLVING THE SAME LEVERAGE COMMODITY, AND THE LEVERAGE TRANSACTION MERCHANT MUST OFFER TO RESELL ANY SHORT LEVERAGE CONTRACT PREVIOUSLY SOLD BY A LEVERAGE CUSTOMER AT ANY TIME DURING WHICH THE LEVERAGE TRANSACTION MERCHANT IS OFFERING TO ENTER INTO SUCH SALES BY ITS CUSTOMERS INVOLVING THE SAME LEVERAGE COMMODITY. AS NOTED ABOVE, HOWEVER, A LEVERAGE TRANSACTION MERCHANT HAS COMPLETE DISCRETION IN SETTING THE PRICE AND ANY CHARGES RELATED THERETO.

THE COMMODITY FUTURES TRADING COMMISSION HAS NOT PASSED UPON THE MERITS OF THESE LEVERAGE CONTRACTS AS AN INVESTMENT VEHICLE NOR UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A VIOLATION OF THE COMMODITY EXCHANGE ACT AND THE REGULATIONS THEREUNDER.

(2) Immediately following the statement required by paragraph (a)(1) of this section, a section, captioned "Provisions of Leverage Contract" in at least ten point type, containing the terms and conditions of the leverage contract being offered. This information must be provided in the order specified in paragraphs (a)(2) (i) through (xi) of this section, with a clear demarcation or separation between each item according to the paragraph of the section to which it corresponds, and include:

(i) The duration or expiration date of the leverage contract;

(ii) The distinguishing characteristics of the contract and of the leverage commodity, including, in particular, those characteristics of the leverage commodity enumerated in § 31.4(g)(1)(i)–(iii), (2), and (3) (i) and (ii);

(iii) A description of the following charges for each leverage contract:

(A) Initial charges;

(B) Carrying charges;

(C) Termination charges;

(iv) A description of the bid and ask prices of each leverage contract;

(v) An explanation of the margins applicable to each leverage contract, including, as required, initial margins, minimum margins and maintenance margins;

(vi) A description of the leverage customer's responsibilities with respect to margin calls, including the timing of such calls and, if applicable, the circumstances under which, time after which, and the order in which the leverage transaction merchant may, consistent with § 31.18 liquidate a customer's position in the leverage contract;

(vii) A description of the manner in which a leverage customer may seek to have a leverage contract repurchased or resold by the leverage transaction merchant, including an explanation of the procedure to be followed by the leverage transaction merchant to effect such repurchase or resale and the manner in which the repurchase or resale price is determined;

(viii) A statement to the effect that other persons may be unwilling to buy from the leverage customer the leverage commodity that is deliverable on the leverage contract or, in the case of metal or coins, may be unwilling to buy such metal or coins without first requiring an inspection or assay at the expense of the leverage customer; a statement to the effect that the leverage transaction merchant, in the case of metal or coins, may be unwilling to accept delivery and pay for such metal or coins without first requiring an inspection or assay at the expense of the leverage customer; and a description of any other requirements for the delivery of a leverage commodity by a leverage customer to a leverage transaction merchant in connection with a short leverage contract;

(ix) A clear explanation of any *force majeure* clauses pertaining to each leverage contract;

(x) A description of any material risks not included in the statements required by paragraph (a)(1) of this section; and

(xi) An identification of the commercial or retail cash price series filed in accordance with § 31.6, along with clearly specified premiums and discounts, if applicable, which the leverage customer or prospective leverage customer can use to evaluate a leverage contract and a widely available source from which such price quotes may be obtained on a timely basis.

(3) An illustrative example of a long leverage transaction which includes a calculation of the break-even price in the format specified by the Commission.

(4)(i) The name, address of the main business office, main business telephone number and form of organization of the leverage transaction merchant. If the address of the main business office is a post office box number, the leverage transaction merchant must state where its books and records will be kept;

(ii) The name of each principal of the leverage transaction merchant;

(iii) The business background, for the five years preceding the date of the statement, of:

(A) The leverage transaction merchant; and

(B) Each principal of the leverage transaction merchant.

The leverage transaction merchant must include in the description of the business background of each such person the name and main business of that person's employers, business associations or business ventures and the nature of the person's duties performed for the employers or in connection with the associations or ventures.

(5)(i) A statement whether any principal of the leverage transaction merchant has entered into or intends to enter into long or short leverage contracts for his own account and, if so, whether leverage customers will be permitted to inspect the records of that person's trades; and

(ii) If principals of the leverage transaction merchant will not enter into or do not intend to enter into long or short leverage contracts for their own account, the leverage transaction merchant must so state with respect to each principal.

(6)(i) Any material administrative or civil action involving any activity or conduct, or related to any statute, set forth in Sections 8a(2) or 8a(3) of the Act, or any material criminal action brought within the five years preceding the date of the document against the leverage transaction merchant or any principal of the leverage transaction merchant; and

(ii) If there has been no such action against any of the foregoing persons, the leverage transaction merchant must make a statement to that effect with respect to each such person.

* * * * *

(k)(1) Within 24 hours after the entry into a long leverage contract with a customer, each leverage transaction merchant shall furnish to such customer, by first-class mail or other, at least equivalent, means of communication, a written Confirmation Statement in a format specified by the Commission containing:

(i) The following bold-face statement in at least ten point type:

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE TRANSACTION SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ON A LEVERAGE CONTRACT PURCHASED FROM A LEVERAGE TRANSACTION MERCHANT ARE CALCULATED BY SUBTRACTING THE ASK PRICE OF THE LEVERAGE CONTRACT AT THE TIME OF THE CUSTOMER'S RESCISSION FROM THE ASK PRICE AT WHICH THE LEVERAGE CONTRACT WAS PURCHASED AND WHICH APPEARS ON THIS CONFIRMATION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (name and address of LTM) OR YOU MAY TELEPHONE (name of LTM) AT (telephone number). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE WRITTEN AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR BY AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE; and

(ii) The following additional information:

(A) The date the leverage contract was entered into;

(B) The transaction identification number;

(C) The name of the leverage commodity;

(D) The expiration date of the leverage contract;

(E) The price at which the leverage commodity was purchased;

(F) The number of contracts covered by the Confirmation Statement;

(G) The total cost of the leverage contracts covered in the Confirmation Statement, which equals the leverage transaction merchant's ask price in dollars per contract multiplied by the number of contracts;

(H) The initial charges, in dollars per contract, incurred by the leverage customer at the time the contract is entered into;

(I) The carrying charges, in dollars per contract, cumulated for one year, based on the charges prevailing at the time the contract is entered into;

(J) The termination charges, in dollars per contract, incurred if the leverage contract is repurchased or liquidated by the leverage transaction merchant or settled by delivery, based on the charges prevailing at the time the contract is entered into;

(K) The bid-ask spread prevailing at the close of business on the day the contract is entered into;

(L) Based upon all of the foregoing, a calculation of the break-even price of the leverage contract and percentage price change to break even;

(M) The initial leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(N) The minimum leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(O) The maintenance leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(P) The commercial or retail cash price series filed in accordance with § 31.6 available to the leverage customer to evaluate the leverage contract (including any applicable premiums or discounts), and where quotes of this series can be obtained on a timely basis.

(2) Within 24 hours after the entry into a short leverage contract with a customer, each leverage transaction merchant shall furnish to such customer, by first-class mail or other, at least equivalent, means of communication, a written Confirmation Statement containing:

(i) The following bold-faced statement in at least ten point type:

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE TRANSACTION SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ON A LEVERAGE CONTRACT SOLD TO A LEVERAGE TRANSACTION MERCHANT ARE CALCULATED BY SUBTRACTING THE BID PRICE AT WHICH THE CONTRACT WAS SOLD TO THE LEVERAGE TRANSACTION MERCHANT AND WHICH APPEARS ON THIS CONFIRMATION FROM THE BID PRICE OF THE LEVERAGE CONTRACT AT THE TIME OF THE CUSTOMER'S RESCISSION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (name and address of LTM) OR YOU MAY TELEPHONE (name of LTM) AT (telephone number). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE WRITTEN AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR BY AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE: and

(ii) Such other information concernng the short leverage contract as is consistent with the information required by § 31.11(k)(1)(ii)(A)–(K) and (M)–(P) to be furnished to customers entering into a long leverage contract.

* * * * *

8. Section 31.12 is amended by revising paragraph (b) to read as follows:

§ 31.12 Segregation.

* * * * *

(b) No leverage customer funds deposited in accordance with paragraph (a) of this section shall be held, disposed

of, used or treated as belonging to the depositing person or any person other than the leverage customers from whom the leverage customer funds were received: *Provided, however,* That leverage customer funds may be used to purchase obligations of the United States, general obligations of any state or of any political subdivision thereof, obligations fully guaranteed as to principal and interest by the United States, or unencumbered warehouse receipts for inventory held in approved contract market depositories or in commercial banks located in the United States which represent cover for leverage contracts purchased by such leverage customers, or may be deposited in a commodity account with a futures commission merchant to margin futures contracts or to purchase commodity options traded on or subject to the rules of a contract market which are permissible cover as described in § 31.8(a) (2) and (3) for leverage contracts entered into by such leverage customers. Any use of leverage customer funds as described in this paragraph (b) shall be made through an account or accounts used for the deposit of leverage customer funds, and proceeds from any sale, liquidation or other disposition of obligations or warehouse receipts obtained by such use shall be redeposited in these accounts. Each person that uses leverage customer funds to purchase obligations or warehouse receipts of the type described in this paragraph (b) shall separately account for and segregate the obligations or warehouse receipts as belonging to leverage customers. The obligations or warehouse receipts shall be deposited with a futures commission merchant, bank or trust company in the United States and shall be deposited under an account name which clearly indicates that it contains obligations or warehouse receipts treated as belonging to leverage customers, segregated as required by this section. Each person so depositing any obligations or warehouse receipts shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant, bank or trust company wherein the obligations or warehouse receipts have been deposited that the futures commission merchant, bank or trust company has been informed that the obligations or warehouse receipts are being treated by the depositing person as belonging to leverage customers and are being held in accordance with the provisions of this section. The futures commission merchant, bank or trust company shall allow inspection of such obligations or warehouse receipts at any reasonable time by any representative of the Commission or designated self-regulatory organization, if any. Each person that uses leverage customer funds to margin futures contracts or to purchase commodity options traded on or subject to the rules of a contract market which represent permissible cover for leverage contracts entered into by such leverage customers shall use a commodity account separate from any other commodity account containing futures contracts which do not represent cover. The leverage customer funds deposited in a commodity account with a futures commission merchant to margin futures contracts or to purchase commodity options traded on or subject to the rules of a contract market which represent permissible cover for leverage contracts entered into by such leverage customers shall be deposited under an account name which clearly indicates that it contains obligations treated as belonging to leverage customers, segregated as required by this section. Each person so depositing any leverage customer funds shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant wherein the leverage customer funds have been deposited that (1) the futures commission merchant has been informed that the commodity account is being treated by the depositing person as belonging to leverage customers and is being held in accordance with the provisions of this section, (2) the customers on whose behalf the account is maintained by the leverage transaction merchant shall not be liable for any margin calls or other required deposits related to such account, and (3) upon liquidation of the open contracts in the account the futures commission merchant's claim in the account balance will be subordinate to that of leverage customers.

* * * * *

9. Section 31.14 is revised to read as follows:

§ 31.14 Recordkeeping.

(a) All books, records and other documents required to be kept by this part shall be kept in accordance with the provisions of § 1.31 of this chapter. In addition, information concerning leverage transactions shall be made available upon request of the Executive Director, the Director of the Division of Trading and Markets, the Director of the Division of Economic Analysis or the Director of the Division of Enforcement, or other designees, at a time and place and in such form and manner as may be specified in the request.

(b) Each leverage transaction merchant shall:

(1) Keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to leverage contracts, commodity futures, commodity options and cash commodities and furnish true and correct information and reports as to the contents or the meaning thereof when and as requested by any authorized representative of the Commission, designated self-regulatory organization, if any, or the United States Department of Justice. Included among such records shall be: All leverage contract orders; signature cards; journals; ledgers; canceled checks; bank statements; loan agreements; invoices; copies of confirmations; copies of statements of purchase, sale, repurchase, resale, liquidation, rescission and delivery; copies of month-end statements; monthly trial balances, and a monthly listing as described in paragraph (d) of this section; reports, letters and copies of disclosure statements signed by leverage customers as described in § 31.11; promotional material, circulars, memoranda, publications, writings, and all other literature or written advice distributed to leverage customers or prospective leverage customers; and all other records, data and memoranda which have been prepared in the course of the business of the leverage transaction merchant concerning leverage contracts, commodity futures, commodity options, and cash commodities;

(2) Keep a record in permanent form which shall show for each leverage customer's account carried by such leverage transaction merchant: (i) The true name and address of the person for whom such account is carried; (ii) the principal occupation and/or type of business of the person for whom such account is carried; (iii) the name and address of any other person who assumes or purports to assume any financial responsibility for or operational control of such account; and (iv) the names of the persons who have solicited and are responsible for each leverage customer's account.

(c) Each leverage transaction merchant shall, as a minimum requirement, prepare regularly and promptly, and keep systematically and in permanent form, the following:

(1) A financial ledger which will show separately for each leverage customer's account all charges against and credits

to such leverage customer's account, including but not limited to all charges and credits for purchases, repurchases, sales, resales, liquidations, rescissions and settlements by delivery of leverage contracts (including the corresponding transaction identification numbers) and all funds transferred, desposited into, or withdrawn from the leverage customer's account.

(2) A record of transactions which will show separately for each leverage customer's account in chronological sequence all leverage contracts entered into with such customer. This record will show for each transaction: The date of the transaction; the commodity involved; a transaction identification number; the maturity date; the number of contracts; whether the transaction represents an initial purchase, initial sale, closing repurchase, closing resale, a liquidating transaction, a rescission or a delivery; and, if a closing or liquidating transaction or a rescission, the total amount realized.

(3) A daily record or journal which will show separately by leverage commodity complete details of all leverage transactions executed on that day, including the person for whom such transaction was made, the leverage commodity and contract involved, the number of leverage contracts, the transaction identification number for each leverage contract, whether the transaction was an initial purchase, repurchase, initial sale, resale, liquidating transaction, rescission or delivery, and the total value of the transaction.

(4) The acknowledgement specified in § 31.11(a).

(5) A record of all notifications under § 31.11(h).

(6) Where reproductions on microfilm of the records required by this paragraph (c) are substituted for hard copy in accordance with the provisions of paragraph (a) of this section, the requirement of paragraphs (c)(1) and (c)(2) of this section will be considered met if the person required to keep such records is ready at all times to provide, and immediately provides at such time and place as required by the Commission and at the expense of such person, reproduced copies which show the records as specified in paragraphs (c)(1) and (c)(2) of this section, on request by any representative of the Commission, designated self-regulatory organization or the United States Department of Justice.

(d) Each age transaction merchant shall prepare, as of the close of the last business day of each calendar month, a listing of all open leverage contracts carried for leverage customs. Such listing shall be by age commodity and contract and separately by long age contracts and short leverage contracts, and shall include the following details with respect to each leverage contract:

(1) The customer account identification number;

(2) The name of the leverage commodity and contract;

(3) The date of execution and the maturity date;

(4) The transaction identification number;

(5) The value of the leverage contract when initiated; and

(6) The unrealized profit or loss on each open leverage contract marked to the market on the basis of the leverage transaction merchant's bid price for a long leverage contract and ask price for a short leverage contract.

10. Section 31.15 is amended by revising paragraphs (a)— and (b) to read as follows:

§ 31.15 Reporting to leverage customers.

Each leverage transaction merchant shall furnish in writing directly to each leverage customer:

(a) Promptly upon the repurchase, resale, liquidation, rescission or delivery of a leverage contract, a statement showing the financial result of the transactions involved, including the gain or loss on the leverage contract as well as the commission and other charges;

(b) As of the close of the last business day of each calendar month or as of any regular monthly date selected a statement which clearly shows:

(1) All leverage contracts which were terminated for or by the leverage customer during the monthly reporting period by leverage commodity and contract, the number of contracts involved, the transaction identification number for each leverage contract, whether the terminating transaction involved repurchase, resale, liquidation, rescission, or delivery, the date the contract was initially entered into, the value of the contract when initiated, the date the contract was terminated, the value of the contract when terminated, and the realized profit or loss on the contract;

(2) The open leverage contract positions carried for leverage customer by leverage commodity and contract, whether the position is a long or short leverage contract, the dates on which such contracts were executed and their maturity dates, the number of contracts, the total value of the contracts when initiated, and the unrealized profit or loss on each such contract marked to the market on the basis of the leverage transaction merchant's bid price for a long leverage contract and ask price for a short leverage contract.

(3) The net ledger balance carried in the leverage customer's account as of the monthly closing date and a complete accounting of any leverage customer funds held for the leverage customer;

(4) A detailed accounting of all financial charges and credits to the previous ledger balance during the monthly reporting period, including all leverage customer funds received from or disbursed to the leverage customer, and all commissions and fees incidental to the contract which have been charged and received, as well as all realized profits and losses; and

(5) Any securities or other property which the leverage customer has deposited with the leverage transaction merchant that represent leverage customer funds.

The monthly statement must also contain the following bold-faced legend in at least ten-point type: IF YOU BELIEVE YOUR MONTHLY STATEMENT IS INACCURATE YOU SHOULD PROMPTLY CONTACT (name of LTM) AT (telephone number).

* * * * *

11. Section 31.16 is revised to read as follows:

§ 31.16 Monthly reporting requirements.

Each leverage transaction merchant shall file written monthly reports with the Commission's headquarters office in Washington, D.C., by the tenth business day of the month following the month covered by the reports. Reports shall be prepared on CFTC Forms 188A, 188B and 189.

(a) *Forms 188A and 188B.* CFTC Form 188A covers long leverage contracts and CFTC Form 188B covers short leverage contracts. These forms shall show the following information separately for each leverage commodity and contract:

(1) The total number of leverage contracts that are open as of the close of business on the last business day of the month for:

(i) All customer accounts, and

(ii) Separately for commercial leverage accounts.

(2) The total number of leverage contracts entered into by leverage customers during the month for:

(i) All customer accounts, and

(ii) Separately for commercial leverage accounts.

(3) The total number of leverage contracts which were repurchased or resold by the leverage transaction transaction merchant during the month.

(4) The total number of leverage contracts which were liquidated by the leverage transaction merchant during

the month (i.e., as a result of overdue or unanswered margin calls).

(5) The total number of deliveries on leverage contracts during the month.

(6) The total number of leverage contracts which were rescinded during the month.

(b) *Form 189.* CFTC Form 189 shall show the following information separately for each leverage commodity and each long and short leverage contract: the leverage transaction merchant's last bid price offered and last ask price offered as of the close of business on each business day.

12. Section 31.17 is amended by revising paragraphs (c) and (d) to read as follows:

§ 31.17 Records of leverage transactions.

* * * * *

(c) For the purposes of this section, the term "order" shall include, but not be limited to, any order for the purchase, sale, repurchase, resale, rescission, settlement by delivery, or liquidation of a leverage contract.

(d) Each leverage transaction merchant shall establish and maintain a record of the bid and ask prices of each leverage contract on each leverage commodity that the leverage transaction merchant offers to sell or sells, or offers to purchase or purchases. The record shall include the times these prices were in effect to the nearest ten seconds.

13. Section 31.18 is amended by revising paragraph (b) to read as follows:

§ 31.18 Margin calls.

* * * * *

(b) A leverage transaction merchant shall allow a leverage customer a reasonable time after contact is effected in which to respond to a margin call. Twenty-four hours, excluding Saturdays, Sundays, and holidays, will be a reasonable time: *Provided, however,* that in the event the leverage customer's leverage account equity falls below 50 percent of aggregate minimum margin with respect to the leverage contracts therein, the leverage transaction merchant may liquidate sufficient contracts to restore minimum margin without prior notice: *Provided, further,* That the leverage customer must be notified of such liquidation within no more than 24 hours thereafter and must be permitted to re-establish his contract for a period of 5 business days at the then prevailing bid price in the case of a long leverage contract and at the then prevailing ask price in the case of a short leverage contract, without commissions, fees or other mark-ups or charges. If a termination charge was assessed by the leverage transaction merchant upon liquidation of a contract in accordance with the first proviso of this paragraph, such a charge must be rescinded upon re-establishment of the contract in accordance with the second proviso of this paragraph.

* * * * *

14. Section 31.19 is amended by revising paragraphs (a) and (b) to read as follows:

§ 31.19 Unlawful representations.

It shall be unlawful for any person:

(a) Required to be registered with the Commission in accordance with §§3.17 and 3.18 of this chapter expressly or impliedly to represent that the commission, by registering that person or by registering the leverage commodity which underlies contracts offered for sale or purchase, or sold or purchased by that person, or otherwise, has directly or indirectly approved that person, the person's method of operation, or any leverage commodity or leverage contract solicited or accepted by that person;

(b) To represent in writing that it is registered with the Commission or that it is offering any leverage commodity registered with the Commission without also stating in writing in connection with that representation that the Commission, by registering that person or the leverage commodity which underlies contracts offered for sale or purchase or sold or purchased by that person, has not directly or indirectly approved the person, the person's method of operation, or any leverage commodity or contract solicited or accepted by that person; or

* * * * *

15. Section 31.23 is amended by revising paragraph (a) to read as follows:

§ 31.23 Limited right to rescind first leverage contract.

(a) A leverage customer who is entering a leverage contract or contracts for the first time with a particular leverage transaction merchant may rescind such contract or contracts during a period of not less than three business days from and including the day on which the leverage customer receives the Confirmation Statement pursuant to the following provisions:

(1) Such customer may be assessed actual price losses accruing to the customer's position from the time at which the customer entered into a leverage contract to the time that the leverage contract was rescinded. Such losses do not extend to any other charges or fees, such as account initiation, carrying, margin or account termination;

(2) In the case of a leverage customer whose initial leverage transaction was a purchase of a leverage contract from a leverage transaction merchant (long leverage contract), actual losses accruing to the position may be calculated only by subtracting the ask price of the leverage contract offered by the leverage transaction merchant at the time when the leverage contract was rescinded from the ask price at which the leverage contract was purchased by the leverage customer and which appears on the Confirmation Statement. In the case of a leverage customer whose initial leverage transaction was a sale of a leverage contract to a leverage transaction merchant (short leverage contract), actual losses are calculated by subtracting the bid price at which the leverage contract was sold by the leverage customer and which appears on the Confirmation Statement from the bid price of the leverage contract offered by the leverage transaction merchant at the time when the leverage contract was rescinded.

(3) Such customer may rescind the contract by telegram sent to the leverage transaction merchant at the address provided on the confirmation statement, or by telephone to a telephone number provided by the leverage transaction merchant on the Confirmation Statement with immediate written affirmation of rescission by telegram, certified letter or at least equivalent means.

* * * * *

Issued in Washington, D.C., on December 21, 1984, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Note.—This form will not be carried in the Code of Federal Regulations.

CFTC FORM 2-FR (Revised 10/84)

[OMB No. 3038-0029]

General Instructions

This form contains the financial statements and schedules which are required to be filed by each leverage transaction merchant, or applicant therefor, in accordance with the Commission's regulations. These instructions, and any other instructions issued from time to time, must be used in preparing this form and constitute a part of this form.

The heading of each page includes a space for the firm's employer identification number. Use the employer identification number ("EIN") assigned by the Internal Revenue Service.

The references in this form to §§ 1.12, 1.16, 1.17, 1.31, 31.4, 31.7, 31.8, 31.9, 31.11,

31.12, 31.13, 31.14 and 145.9 are to the Commission's regulations contained in 17 CFR Chapter I. The reference to § 240.15c3-1 is to the Securities and Exchange Commission's regulations contained in 17 CFR Chapter II.

Before completing this form, the applicant or registrant should be familiar with the following sections of the Commission's regulations:

(1) 1.12—Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

(2) 1.16—Qualifications and reports of accountants (if this report is required to be certified by an independent public accountant).

(3) 1.17—Minimum financial requirements for futures commission merchants and introducing brokers.

(4) 1.31—Books and records; keeping and inspection.

(5) 31.4—Definitions [relating to leverage transactions].

(6) 31.7—Maintenance of minimum financial requirements by leverage transaction merchants.

(7) 31.8—Cover of leverage contracts.

(8) 31.9—Minimum financial requirements [for leverage transaction merchants].

(9) 31.11—Disclosure [by leverage transaction merchants].

(10) 31.12—Segregation [by leverage transaction merchants].

(11) 31.13—Financial reports of leverage transaction merchants.

(12) 31.14—Recordkeeping [by leverage transaction merchants].

(13) 145.9—Petition for confidential treatment of certain information submitted to the Commission.

The terms "current assets," "liabilities," "net capital," and "adjusted net capital" are all defined terms which may be found in Section 31.9 of the Commission's regulations. Those definitions largely incorporate by reference the definitions of those terms contained in Section 1.17 of the Commission's regulations, and leverage transaction merchants should be familiar with that section.

Unaudited Report

Each unaudited report filed pursuant to Section 31.13(f) must be completed in accordance with the instructions to the form and include the following:

(a) A Statement of Financial Condition;

(b) A Statement of the Computation of the Minimum Capital Requirements;

(c) A Schedule of Leverage Contracts and Coverage Provided;

(d) A Statement of Changes in Ownership Equity;

(e) A Schedule of Segregation Requirements and Funds on Deposit in Segregation; and

(f) Any additional information that may be necessary to make the required statements not misleading.

Audited Report

Each report certified by an independent public accountant must be completed in accordance with the instructions to the form and contain the statements set forth above as well as the following statements all completed in accordance with §§ 1.16 and 31.13 of the regulations:

(a) A Statement of Income (Loss);

(b) A Statement of Changes in Financial Position;

(c) A Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement;

(d) Accountant's report covering the Form 2-FR and all supporting schedules included as part of the report;

(e) Accountant's supplemental report of material inadequacies; and

(f) Appropriate footnote disclosures.

Each item on page 1 of the report form must be answered completely and the attestation must be signed and dated. This form must be based on the applicant's or registrant's accounting records. All records which support amounts shown in this report must be retained in accordance with § 1.31 of the Commission's regulations.

The report must be prepared in conformity with generally accepted accounting principles (except where otherwise indicated by the regulations) applied on a basis consistent with that of the preceding report and must include all informative disclosures which are necessary to make the required statements and schedules not misleading. The report must be prepared on the accrual basis of accounting. If no response is made to an item or subdivision thereof, it will be assumed that the applicant or registrant has nothing to report.

Freedom of Information Act

This form generally is considered by the Commission to be a public record, copies of which may be obtained upon written request to the Commission's Office of Public Information in Washington, D.C. If a registrant or applicant follows the procedures set forth in § 31.13(m) of the regulations for separate binding of certain portions of this form, only such separately bound portions will be made available to the public. The separately bound public portion of the form must include: (1) The Statement of Financial Condition; (2) the Statement of the Computation of the Minimum Capital Requirements; (3) the Schedule of Leverage Contracts and Coverage Provided; (4) the Schedule of Segregation Requirements and Funds on Deposit in Segregation; and (5) the independent public accountant's opinion, if the report is audited. Leverage transaction merchants are also reminded that § 31.11(m) requires them to furnish, upon request, to all leverage customers whose leverage contracts have not matured or are otherwise still open, and to prospective customers who are being solicited to enter leverage contracts with it, a true copy of the quarterly unaudited or annual audited financial statement most recently filed with the Commission pursuant to § 31.13, except that the portions of those statements which will generally be accorded non-public treatment by the Commission need not be so furnished.

Under the provisions of the Freedom of Information Act (5 U.S.C. 552), the Commission may disclose to third parties portions of the "non-public" information in the report under the following circumstances: (1) In connection with matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act; and (5) in other circumstances in which withholding of such information appears unwarranted.

If the applicant or registrant files a petition for confidential treatment of this information, § 145.9 of the Commission's regulations affords the applicant or registrant with the right to notice and a right to appeal any Commission staff decision to disclose this information pursuant to a request for information under the Freedom of Information Act. In addition, if the applicant or registrant believes that the placing of any other information submitted on or with this form in the Commission's public files would constitute an unwarranted invasion of the applicant's or registrant's personal privacy or would reveal senstive business information, the registrant or applicant may petiton the Commission to treat such other information as nonpublic pursuant to § 145.9 in response to requests under the Freedom of Information Act.

BILLING CODE 6351-01-M

FORM 2-FR
(Revised 10/84)

OMB No. 3038-0029

Name of Registrant or Applicant	Firm Employer ID No.
Address of Principal Place of Business	Name of Person to Contact Concerning This Report
(City) (State) (Zip Code)	Telephone No. of Contact ( )

1. Report for the period beginning _____ and ending _____.

2. Name of Designated Self-Regulatory Organization Supervising Registrant _____

3. If an audited report, identify independent public accountant expressing an opinion thereon:

NAME _____

ADDRESS _____
(Number and Street)

_____
(City) (State) (Zip Code)

The leverage transaction merchant, or applicant for registration therefor, submitting this Form and its attachments and the person whose signature appears below represent that, to the best of their knowledge, all information contained therein is true, correct and complete. It is understood that all required items, statements and schedules are integral parts of this Form and that the submission of any amendment represents that all unamended items, statements and schedules remain true, correct and complete as previously submitted. It is further understood that any intentional misstatements or omissions of facts constitute Federal Criminal Violations (see 18 U.S.C. 1001).

Signed this _____ day of _____ 19 ___.

Manual signature _____
Type or Print Name _____

☐ Sole Proprietor ☐ Chief Financial Officer

☐ General Partner ☐ Chief Executive Officer

Firm: / Firm Employer ID No.

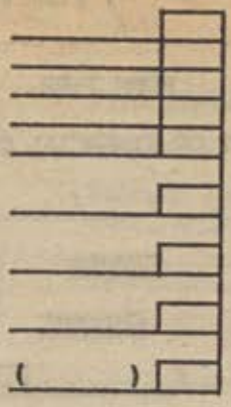
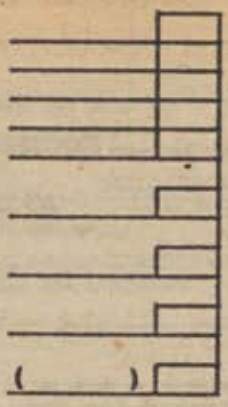
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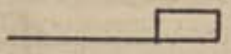
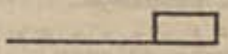
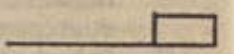
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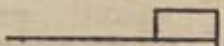
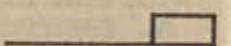
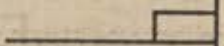
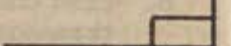
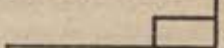
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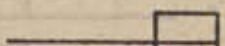
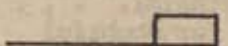
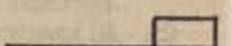
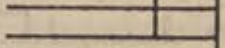
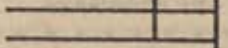
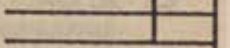
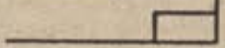
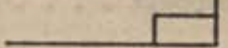
Assets

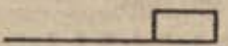
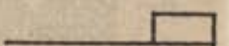
	Current	Non-Current	Total
1. Cash:			
A. Cash	$		$
B. Cash segregated for the benefit of leverage customers			
C. Other restricted cash		$	
2. Receivables from and deposits with clearing organizations:			
A. Securities transactions			
B. Firm commodity transactions			
3. Receivables from other futures commission merchants and brokers:			
A. Firm commodity transactions			
B. Securities transactions (attach details)			
C. Allowance for doubtful accounts	( )		( )
D. Security deposit			
4. Receivables from leverage customers:			
A. Debit and deficit accounts			
B. Allowance for doubtful accounts	( )	( )	( )
5. Receivables from proprietary leverage accounts:			
A. Debit and deficit accounts of general partners			
B. Allowance for doubtful accounts	( )	( )	( )

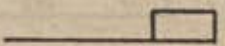
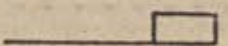
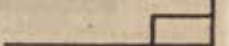
6. Other receivables and advances:
   - A. Merchandising . . . . . 
   - B. Taxes receivable . . . . . 
   - C. Insurance claims . . . . . 
   - D. Dividends and interest . . .
   - E. Notes receivable . . . . .
   - F. Advances on cash commodities . . . . .
   - G. Receivables from employees and leverage representatives
   - H. Other (itemize here or on a separate page) . . . . .
   - I. Allowance for doubtful accounts . . . . . ( ) ( )

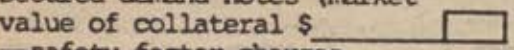
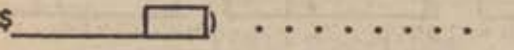
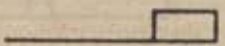
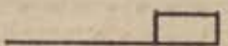
7. Securities purchased under agreement to resell . . . . .   

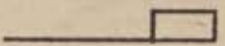
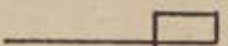
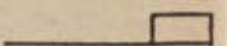
8. Inventories of securities-readily marketable, at market value:
   - A. Firm owned . . . . .  
   - B. Customer owned in segregation. . . . .  
   - C. Investment of segregated funds. . . . .  

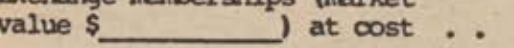
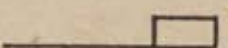
9. Inventories of cash commodities, raw materials, work in progress and finished goods
   - A. Covered . . . . .   
   - B. Not covered . . . . .   
   - C. Segregated -- cover for leverage contracts . . . .   

10. Securities owned not readily marketable at estimated fair value . . . . .  

11. Partners' individual securities accounts at market value . . . .   

12. Secured demand notes (market value of collateral $  —safety factor charges applicable to such collateral $ ) . . . . .   

13. Guarantee deposits with and stock in clearing organizations (at cost) . . . . .   

14. Exchange memberships (market value $ ) at cost . .  

15. Investments in and receivables from affiliates and subsidiaries	☐	☐	☐
16. Plant, property, equipment and capitalized leases (at cost net of accumulated depreciation and amortization of $_____)	☐	☐	☐
17. Other assets:			
A. Prepaid expenses and deferred charges		☐	☐
B. Miscellaneous (itemize here or on a separate page)	☐	☐	☐
18. Total Assets.	☐	☐	☐

Firm: / Firm Employer ID No. /

FORM 2-FR

STATEMENT OF FINANCIAL CONDITION

AS OF ___/___/___

Liabilities & Ownership Equity

Liabilities

19. Loans payable:
    A. Secured by warehouse receipts. $
    B. Secured by other property . .
    C. Unsecured . . . . . .

20. Securities sold under repurchase agreement . . . . . .

21. Payable to clearing organizations:
    A. Securities accounts. . . . .
    B. Firm commodity accounts. . .

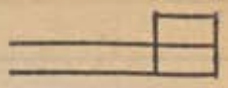
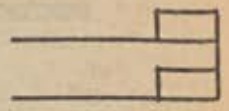
22. Payable to other futures commission merchants or brokers:
    A. Payables relating to securities transactions (attach details)
    B. Payables relating to firm commodity transactions . . .

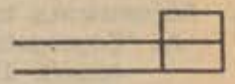
23. Payable to leverage customers . .

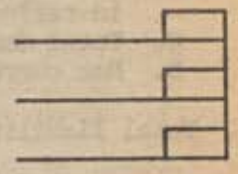
24. Payable to proprietary accounts:
    A. Securities accounts . . . .
    B. Commodity and leverage accounts of general partners. . . . .

25. Securities sold not yet purchased at market value—including arbitrage . . . . . .

26. Accounts payable, accrued liabilities and expenses:
    A. Drafts payable . . . . . .
    B. Accounts payable . . . . . .
    C. Income taxes payable . . . .
    D. Deferred income taxes . . .
    E. Accrued expenses and other liabilities . . . . . .

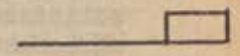
F. Salaries, wages and commissions payable . . . . . 
G. Advances against commodities
H. Notes, mortgages and other payables due within twelve months of the date of this statement (see item 27) . . 
I. Other (itemize here or on a separate page) . . . . . .

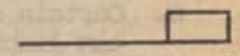
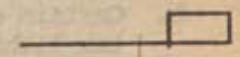
27. Notes, mortgages and other payables not due within twelve months of the date of this statement:
A. Unsecured . . . . . 
B. Secured . . . . . .
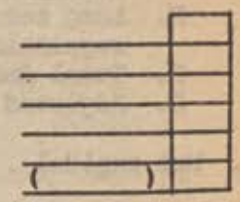
28. Liabilities subordinated to claims of general creditors:
A. Subject to a satisfactory subordination agreement . . 
B. Not subject to a satisfactory subordination agreement . .

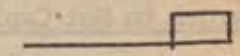
29. Total liabilities . . . . . .

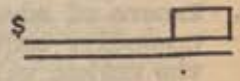
Ownership Equity

30. Sole proprietorship . . . . . 

31. Partnership:
A. Partnership contributed and retained capital . . . . 
B. Additional capital per partnership agreement (equities in partners' trading accounts, etc.) 

32. Corporation:
A. Preferred stock . . . . . 
B. Common stock . . . . . .
C. Additional paid in capital .
D. Retained earnings . . . . .
E. Sub-total . . . . . .
F. Less capital stock in treasury ( )

33. Total ownership equity . . . . . 

34. Total liabilities and ownership equity $ 

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF THE COMPUTATION OF THE MINIMUM CAPITAL REQUIREMENTS

AS OF ___/___/___

Net Capital

1. Current assets - Item 18* . . . . $

2. Adjustments to current assets:
   A. Segregated assets (to the extent liabilities are deducted in 4(B) below)** . $
   B. (Increase)-decrease to clearing organization stock to reflect margin value . .
   C. Total deductions . . . . . ( )
   D. Net current assets . . . . . $

3. Total liabilities - Item 29* . .

4. Deduct:
   A. Liabilities subject to satisfactory subordination agreements - Item 28A* . . .
   B. Equities in leverage customers' accounts**
   C. Certain deferred income tax liability (see regulation 1.17(c)(4)(iv)) . . .
   D. Certain current income tax liability (see regulation 1.17(c)(4)(v)) . . .
   E. Long term debt pursuant to regulation 1.17(c)(4)(vi). .
   F. Total deductions . . . . . ( )
   G. Adjusted liabilities . . . .

5. Net capital . . . . . $

Charges to Net Capital

6. Excess of advances paid on cash commodity contracts over 95% of the market value of commodities covered by such contracts . . . . $

* References are to item numbers on the Statement of Financial Condition.
** Item #2A must equal Item #4B.

7. Five percent (5%) of the market value of inventories covered by open futures contracts or commodity options. (See Note below).

8. Twenty percent (20%) of the market value of uncovered inventories. (See Note below) . . . . . .

9. Ten percent (10%) of the market value of commodities involved in fixed price commitments and forward contracts which are covered by open futures contracts or commodity options . . . . . .

10. Twenty percent (20%) of the market value of commodities involved in fixed price commitments and forward contracts which are not covered by open futures contracts or commodity options . . . . . .

11. Charges as specified in §240.15c3-1(c)(2)(vi) and (vii) (or, for securities brokers or dealers only, §240.15c3-1(f)) against securities:

	Assets Market Value	Charge
A. Securities owned:		
(a) Bankers' acceptances, certificates of deposit and commercial paper . .	$	
(b) U.S. and Canadian government obligations . .		
(c) State and Municipal government obligations .		
(d) Corporate obligations .		
(e) Stocks and warrants . .		
(f) Arbitrage		
(g) Other securities		
(h) Total (a) - (g)	$	
B. Investment of segregated funds		
C. Total A+B		

NOTE: There is no charge applicable to inventories registered as deliverable on a contract market and which are covered by futures contracts; nor is any charge applicable against inventories representing cover for leverage contracts.

12. Charges on securities options as specified in §240.15c3-1, Appendix A

13. Charges against open contractual commitments as specified in §240.15c3-1(c)(2)(viii) . . . . .

14. Undermargined leverage customer accounts — amount in each account required to meet maintenance margin requirements less the amount of current margin calls in that account . . . . . ☐

15. Uncovered open futures and commodity option contracts in proprietary accounts (unless such futures or exchange-traded options represent cover for leverage contracts entered into by the leverage transaction merchant, in which case there is no charge) — percentage of margin requirements applicable to such contracts. . . . . ☐
Less: equity in proprietary accounts included in liabilities (p.5, line 24B) . . . . . ( ) ☐ ☐

16. A. Ten percent (10%) of the market value of commodities which are the subject of commodity options not traded on a contract market carried long by the applicant or registrant which has value and such value increased adjusted net capital (this charge is limited to the value attributed to such options) . . .

B. Commodity options which are traded on contract markets and carried long in proprietary accounts. Charge is the same as would be applied if applicant or registrant was the grantor of the options (this charge is limited to the value attributed to such options) . . . . . ☐

17. Five percent (5%) of all unsecured receivables from unregistered futures commission merchants or securities brokers or dealers . .

18. Secured demand note deficiency .

19. For securities brokers or dealers all other deductions specified in §240.15c3-1 . . . . . ☐

Net Capital Computation

20. Total charges . . . . . ( ) ☐

21. Adjusted net capital . . . . . $ ☐

22. Net capital required:
    A. Market value of the physical commodities underlying each uncovered leverage contract entered into by the leverage transaction merchant* . . . ☐
    B. 20% of A . . . . . ☐
    C. Enter $2,500,000 plus B ☐

23. Excess net capital (Item 21 less Item 22C) . . . . . $ ☐

24. Enter 120% of line 22C. This is your early warning capital level. If this amount is greater than the amount on line 21, you must immediately notify your DSRO and the Commission and begin filing monthly financial reports pursuant to regulation §31.7(b). $ ☐

*Indicate below the cash price series used, by commodity, to compute the value in Item 22A

Firm: / Firm Employer ID No.

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A LONG LEVERAGE CONTRACT	Platinum	Gold Bullion	Bulk Gold Coins	Silver Bullion	Bulk Silver Coins
1. Quantity of physical commodities subject to long leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required — Enter 90% of line 1					
3. Coverage provided:					
A. Futures and options:					
i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Quantity of inventory* (this must equal at least 25% of line 1 — if it does not, see regulation §31.8(b))					
C. Other (describe on a separate sheet)					
D. Total (sum of A, B, and C)					
4. Excess (insufficiency) of coverage (3D minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

* The inventory appearing on this line, if encumbered, may not be encumbered in excess of 70 percent of its market value. See regulation §31.8(a)(2)(i) and (ii).

NOTE: A leverage transaction merchant's obligation to cover leverage contracts purchased by leverage customers is separate and distinct from its obligation to cover leverage contracts sold by leverage customers. In other words, a leverage transaction merchant cannot use short leverage contracts to cover long leverage contracts, or vice versa.

Firm: / Firm Employer ID No. /

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A LONG LEVERAGE CONTRACT	Copper	British Pound	Deutsche Mark	Japanese Yen	Swiss Franc
1. Quantity of physical commodities subject to long leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required — Enter 90% of line 1					
3. Coverage provided:					
A. Futures and options:					
i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Quantity of inventory* (this must equal at least 25% of line 1 — if it does not, see regulation §31.8(b))					
C. Other (describe on a separate sheet)					
D. Total (sum of A, B, and C)					
4. Excess (insufficiency) of coverage (3D minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

* The inventory appearing on this line, if encumbered, may not be encumbered in excess of 70 percent of its market value. See regulation §31.8(a)(2)(i) and (ii).

Firm: / Firm Employer ID No.

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A SHORT LEVERAGE CONTRACT	Platinum	Gold Bullion	Bulk Gold Coins	Silver Bullion	Bulk Silver Coins
1. Quantity of physical commodities subject to short leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required — Enter 90% of line 1					
3. Coverage provided: A. Futures and options: i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Other (describe on a separate sheet)					
C. Total (sum of A and B) . . .					
4. Excess (insufficiency) of coverage (3C minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

NOTE: A leverage transaction merchant's obligation to cover leverage contracts purchased by leverage customers is separate and distinct from its obligation to cover leverage contracts sold by leverage customers. In other words, a leverage transaction merchant cannot use short leverage contracts to cover long leverage contracts, or vice versa.

Firm: / Firm Employer ID No. /

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A SHORT LEVERAGE CONTRACT	Copper	British Pound	Deutsche Mark	Japanese Yen	Swiss Franc
1. Quantity of physical commodities subject to short leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required — Enter 90% of line 1					
3. Coverage provided: A. Futures and options: i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Other (describe on a separate sheet)					
C. Total (sum of A and B) . . .					
4. Excess (insufficiency) of coverage (3C minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF INCOME (LOSS)

FOR THE PERIOD FROM _____ THROUGH _____

Revenues

1.	Merchandising activities:	
	A. Net sales	$
	B. Cost of goods sold	( )
	C. Gross income from sales . .	$
2.	Leverage commissions.	
3.	Leverage maintenance fees	
4.	Firm trading accounts:	
	A. Realized commodity futures and options	
	B. Unrealized commodity futures and options	
	C. Realized security and security options	
	D. Unrealized security and security options	
5.	Interest and dividends:	
	A. Interest earned on investments of leverage customers' segregated funds	
	B. Interest earned on leverage customer debit balances. . .	
	C. Other interest and dividends	
6.	Other income (itemize here or on a separate page)	
7.	Total revenue	$

Expenses

8.	Commissions	
9.	Employee compensation and benefits (exclusive of commissions) . . .	
10.	Occupancy and equipment rental .	
11.	Advertising and promotional activities	

12.	Communications	
13.	Bad debt expense:	
	A. Leverage accounts.	
	B. Merchandising	
	C. Other	
14.	Trade Errors:	
	A. Customer Accounts	
	B. Other	
15.	Interest	
16.	Warehousing expense	
17.	Other expenses (itemize here or on a separate page)	
18.	Total expenses	$
19.	Income (loss) before income taxes and items below	
20.	Income tax expense	
21.	Minority interest in income of consolidated subsidiaries	
22.	Equity in earnings of unconsolidated subsidiaries less applicable tax	
23.	Income (loss) before extraordinary items	
24.	Extraordinary gains (loss), less applicable tax	
25.	Cumulative effect of changes in accounting principles, less applicable tax	
26.	Net income (loss)	$

STATEMENT OF CHANGES IN FINANCIAL POSITION

The statement may be in any format which is relevant, but must be in accordance with generally accepted accounting principles.

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF CHANGES IN OWNERSHIP EQUITY

FOR THE PERIOD FROM _____ THROUGH _____

1. Total ownership equity as previously reported . . . . . $_____
2. Net income (loss) for period . . . . . _____
3. Other additions to capital (explain below) . _____
4. Dividends . . . . . ( )
5. Other deductions from capital (including partner and proprietary withdrawals) (explain below) . . . . . ( )
6. Balance — to agree with Item 33 on the current Statement of Financial Condition . . $_____

Date	Explanation	Addition (Deduction) Amount
		$

SUPPLEMENTAL QUESTION

Do the amounts reported as ownership equity or liabilities subordinated to the claims of general creditors include any amounts expected to be withdrawn or maturing within the next six months? YES _____ NO _____.

If yes, furnish a statement giving full particulars.

Firm: / Firm Employer ID No. /

FORM 2-FR

STATEMENT OF CHANGES IN LIABILITIES

SUBORDINATED TO THE CLAIMS OF GENERAL CREDITORS

PURSUANT TO A SATISFACTORY SUBORDINATION AGREEMENT

FOR THE PERIOD FROM _____ THROUGH _____

1. Total subordinated borrowings as previously reported . . . . . $_____
2. Increases (explain below) . . . . . _____
3. Decreases (explain below) . . . . . (_____)
4. Balance -- to agree with Item 28A on the current Statement of Financial Condition . . $_____

Date	Explanation	Increase (Decrease) Amount
		$

Firm: / Firm Employer ID No.

FORM 2-FR

SCHEDULE OF SEGREGATION REQUIREMENTS AND FUNDS

IN SEGREGATION AS OF ___/___/___

LEVERAGE CUSTOMER FUNDS

SEGREGATION REQUIREMENTS

1.	Net ledger balance:	
	A. Cash	$
	B. Securities (at market) . . .	
2.	Net unrealized profit (loss) in leverage customers' open leverage contracts.	
3.	Net equity (deficit) (total of 1 and 2)	
4.	Add accounts liquidating to a deficit and accounts with debit balances with no open contracts . .	
5.	Amount required to be segregated (total of 3 and 4).	

FUNDS IN SEGREGATION

		BANKS	FCMs	
6.	Funds on deposit in segregated leverage customer accounts:			
	A. Cash			
	B. Unrealized gain (loss) on open futures and exchange-traded option contracts			
	C. Securities:			
	i. Investments			
	ii. Held for particular customers			
	D. Unencumbered inventory .			
	E. Amount of funds in segregation (total of A,B,C, and D).			
7.	Excess (insufficiency) of funds in segregation (5 minus 6.E)			

AUTHORITY: Sections 8a, 17 and 19 of the Commodity Exchange Act (7 U.S.C. 12a, 21 and 23).

CFTC Form 188A (10-84)
Replaces CFTC Form 188

OMB No. 3038-0029

COMMODITY FUTURES TRADING COMMISSION
LEVERAGE TRANSACTION MERCHANT'S REPORT ON LONG LEVERAGE CONTRACTS

LEVERAGE TRANSACTION MERCHANT'S NAME:								REPORT DATE:	
Commodity *(Specify each leverage commodity in the spaces provided below)*	Maturity In Years (1)	Monthend Open Long Contracts (2)	Monthend Open Long Contracts in Commercial Accounts (3)	Long Contracts Entered Into During the Month (4)	Long Contracts Entered Into by Commercials During the Month (5)	Repurchases During the Month (6)	Liquidations of Long Contracts During the Month (7)	Deliveries Taken on Long Contracts During the Month (8)	Long Contracts Rescinded During the Month (9)
Commodity:									
Commodity:									
Commodity:									
Commodity:									
Commodity:									
Commodity:									
Commodity:									

INSTRUCTIONS FOR PREPARING AND FILING CFTC FORM 188A ON LONG LEVERAGE CONTRACTS

Leverage Transaction Merchants

(See Part 31 of the Regulations under the Commodity Exchange Act)

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13 or 18 U.S.C. Sec. 1001.

Report Date—The last business day of each calendar month.

Who Should Report—Each person registered as a leverage transaction merchant who has entered into a leverage transaction on a long leverage contract with a customer during the month preceding the report date ("reporting month") or has open long leverage contracts with customers as of the close of business on the report date.

When to Report—The report shall be submitted to the Commodity Futures Trading Commission no later than the tenth business day following the report date.

Where to Report—The report shall be submitted to the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Division of Economic Analysis.

What to Report—Report all customer transactions and open long contracts separately, by each type of leverage contract traded on a registered leverage commodity as follows:*

1. The number of open long contracts as of the close of business on the report date held by:
   a. All customers.
   b. Commercial enterprises (i.e., producers, processors, commercial users or merchants which, as part of their business, handle the commodity which is the subject of the leverage contract or the products or by-products thereof).

2. The total number of long leverage contracts purchased by leverage customers during the month for:
   a. All customers.
   b. Commercial enterprises.

3. The total number of long leverage contracts which were repurchased by leverage transaction merchants during the month.

4. The total number of long leverage contracts which were liquidated by the leverage transaction merchants during the month (i.e., as a result of overdue or unanswered margin calls).

5. The total number of long leverage contracts on which deliveries were taken during the month.

6. The total number of long leverage contracts which were rescinded during the month.

---

*For reporting purposes, long leverage contracts on the same leverage commodity are different types if they have different maturities. In accordance with the Commission's regulations regarding the registration of leverage commodities, different leverage commodities specify different delivery units, i.e., 100 oz. gold bullion and one kilo gold bullion are different leverage commodities as are different grades of the same commodity.

CFTC Form 1888 (10-84)
Replaces CFTC Form 188

OMB No. 3038-0029

COMMODITY FUTURES TRADING COMMISSION
LEVERAGE TRANSACTION MERCHANT'S REPORT ON SHORT LEVERAGE CONTRACTS

LEVERAGE TRANSACTION MERCHANT'S NAME:

REPORT DATE:

Commodity *(Specify each leverage commodity in the spaces provided below)*	Maturity in Years (1)	Monthend Open Short Contracts (2)	Monthend Open Short Contracts in Commercial Accounts (3)	Short Contracts Entered Into During the Month (4)	Short Contracts Entered Into by Commercials During the Month (5)	Resales During the Month (6)	Liquidations of Short Contracts During the Month (7)	Deliveries Made on Short Contracts During the Month (8)	Short Contracts Rescinded During the Month (9)
Commodity:									
Commodity:									
Commodity:									
Commodity:									
Commodity:									
Commodity:									
Commodity:									
Commodity:									

INSTRUCTIONS FOR PREPARING AND FILING CFTC FORM 188B ON SHORT LEVERAGE CONTRACTS

Leverage Transaction Merchants

(See Part 31 of the Regulations under the Commodity Exchange Act)

NOTICE. Failure to file a report required by the Commodity Exchange Act and the regulations thereunder or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13 or 18 U.S.C. Sec. 1001.

Report Date—The last business day of each calendar month.

Who Should Report—Each person registered as a leverage transaction merchant who has entered into a leverage transaction on a short leverage contract with a customer during the month preceding the report date ("reporting month") or has open short leverage contracts with customers as of the close of business on the report date.

When to Report—The report shall be submitted to the Commodity Futures Trading Commission no later than the tenth business day following the report date.

Where to Report—The report shall be submitted to the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Division of Economic Analysis.

What to Report—Report all customer transactions and open short contracts separately, by each type of leverage contract traded on a registered leverage commodity as follows:*

1. The number of open short contracts as of the close of business on the report date held by:
   a. All customers.
   b. Commercial enterprises (i.e., producers, processors, commercial users or merchants which, as part of their business, handle the commodity which is the subject of the leverage contract or the products or by-products thereof).

2. The total number of short leverage contracts sold to leverage customers during the month for:
   a. All customers.
   b. Commercial enterprises.

3. The total number of short leverage contracts which were resold to leverage transaction merchants during the month.

4. The total number of short leverage contracts which were liquidated by the leverage transaction merchant during the month (i.e., as a result of overdue or unanswered margin calls).

5. The total number of short leverage contracts on which deliveries were made during the month.

6. The total number of short leverage contracts which were rescinded during the month.

---

*For reporting purposes, short leverage contracts on the same leverage commodity are different types if they have different maturities. In accordance with the Commission's regulations regarding the registration of leverage commodities, different leverage commodities specify different delivery units, i.e., 100 oz. gold bullion and one kilo gold bullion are different leverage commodities as are different grades of the same commodity.

CFTC Form 189 (10-84)
Previous editions obsolete

OMB No. 3038-0029

COMMODITY FUTURES TRADING COMMISSION

LEVERAGE TRANSACTION MERCHANT'S BID AND ASK PRICES AT CLOSE OF TRADING

LEVERAGE TRANSACTION MERCHANT'S NAME:									REPORT DATE:	
Day/Month/Year	Commodity (specify)		Commodity (specify)		Commodity (specify)		Commodity (specify)		Commodity (specify)	
	Maturity in Years		Maturity in Years		Maturity in Years		Maturity in Years		Maturity in Years	
	BID	ASK	BID	ASK	BID	ASK	BID	ASK	BID	ASK

INSTRUCTIONS FOR PREPARING AND FILING CFTC FORM 189 ON LEVERAGE CONTRACTS

Leverage Transaction Merchants

(See Part 31 of the Regulations under the Commodity Exchange Act)

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13 or 18 U.S.C. Sec. 1001.

Report Date—The last business day of each calendar month.

Who Should Report—Each person registered as a leverage transaction merchant who has entered into a leverage transaction with a customer during the month preceding the report date ("reporting month") or has open leverage contracts with customers as of the close of business on the report date.

When to Report—The report shall be submitted to the Commodity Futures Trading Commission no later than the tenth business day following the report date.

Where to Report—The report shall be submitted to the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Division of Economic Analysis.

What to Report—Report by each type of leverage contract traded on each registered leverage commodity the last bid price offered and the last ask price offered as of the close of business of each business day.*

*For reporting purposes, leverage contracts on the same leverage commodity are different types if they have different maturities. In accordance with the Commission's regulations regarding the registration of leverage commodities, different leverage commodities specify different delivery units, i.e., 100 oz. gold bullion and one kilo gold bullion are different leverage commodities as are different grades of the same commodity.

[FR Doc. 84-33999 Filed 12-31-84; 8:45 am]
BILLING CODE 6351-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 83F-0052]

Secondary Direct Food Additives Permitted in Food for Human Consumption

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of divinylbenzene copolymer for use in the removal of organic substances from aqueous foods. This action responds to a petition filed by Rohm & Haas Co.

DATES: Effective January 2, 1985; objections by February 1, 1985. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 173.65, effective on January 2, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C. St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 11, 1983 (48 FR 10496), FDA announced that a petition (FAP 3B3686) had been filed by Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that the food additive regulations be amended to provide for the safe use of divinylbenzene polymers for use in the removal of organic substances from aqueous foods.

Although the filing notice mentioned only divinylbenzene polymers, the additive is actually a copolymer of divinylbenzene and ethylvinylbenzene. Evaluation of the petition revealed that the monomer divinylbenzene contains ethylvinylbenzene which is copolymerized to form the additive. FDA therefore concludes that the additive should more properly be called divinylbenzene copolymer in the regulation.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference, Food processing aids.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Food Safety and Applied Nutrition (21 CFR 5.61), Part 173 is amended in Subpart A by adding new § 173.65, to read as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

§ 173.65 Divinylbenzene copolymer.

Divinylbenzene copolymer may be used for the removal of organic substances from aqueous foods under the following prescribed conditions:

(a) The copolymer is prepared in appropriate physical form and is derived by the polymerization of a grade of divinylbenzene which comprises at least 79 weight-percent divinylbenzene, 15 to 20 weight-percent ethylvinylbenzene, and no more than 4 weight-percent nonpolymerizable impurities.

(b) In accordance with the manufacturer's directions, the copolymer described in paragraph (a) of this section is subjected to pre-use extraction with a water soluble alcohol until the level of divinylbenzene in the extract is less than 50 parts per billion as determined by a method titled, "The Determination of Divinylbenzene in Alcohol Extracts of Amberlite XAD-4," which is incorporated by reference. Copies of this method are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. The copolymer is then treated with water according to the manufacturer's recommendation to remove the extraction solvent to guarantee a food-grade purity of the resin at the time of use, in accordance with current good manufacturing practice.

(c) The temperature of the aqueous food stream contacting the polymer is maintained at 79.4 °C (175 °F) or less.

(d) The copolymer may be used in contact with food only of Types I, II, and VI-B (excluding carbonated beverages) described in Table 1 of paragraph (c) of § 176.170 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 1, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective January 2, 1985.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended 21 U.S.C. 321(s), 348))

December 19, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-34005 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 84F-0254]

Indirect Food Additives Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations by revising the specifications for di(*n*-octyl)tin dichloride, (*n*-octyl)tin trichloride, and di(*n*-octyl)tin oxide used in the manufacture of octyltin stabilizers in vinyl chloride plastics intended for use in contact with food.

DATES: Effective January 2, 1985; objections by February 1, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 14, 1984 (49 FR 32466), FDA announced that a petition (FAP 4B3810) had been filed by M&T Chemical, Inc., P.O. Box 1104, Rahway, NJ 07065, proposing to amend the food additive regulations by revising the specifications listed in 21 CFR 178.2650 for di(*n*-octyl)tin dichloride, (*n*-octyl)tin trichloride, and di(*n*-octyld)tin oxide to the following: (1) di(*n*-octyl)tin dichloride has an organotin composition that is not less than 95 percent by weight di(*n*-octyl)tin dichloride and not more than 5 percent by weight of tri(*n*-octyl)tin chloride; (2) di(*n*-octyl)tin oxide has an organotin composition that is not less than 95 percent by weight di(*n*-octyl)tin oxide and not more than 5 percent by weight total of bis[tri(*n*-octyl)tin] oxide, and/or mono *n*-octyltin oxide; and (3) (*n*-octyl)tin trichloride has an organotin composition that is not less than 95 percent by weight (*n*-octyl)tin trichloride and not more than 5 percent by weight of tri(*n*-octyl)tin chloride. These substances are for use in the manufacture of octyltin stabilizers in vinyl chloride plastics intended for use in contact with food.

The revised specifications in § 178.2650 for di(*n*-octyl)tin dichloride retain the current listing in paragraph (a)(1), and by cross-reference in paragraph (a)(2), for the impurity tri(*n*-octyl)tin chloride at a level not greater than 5 percent by weight, and drop the remaining alkyltin impurities. Similarly, the specifications for di(*n*-octyl)tin oxide retain the impurity limit of not greater than 5 percent by weigth of bis[tri(*n*-octyl)tin] oxide, and/or mono *n*-octyltin oxide, while dropping the other alkyltin oxide impurities. Further, the revised specifications retain, in paragraph (a)(4), the 5 percent by weight limit for tri(*n*-octyl)tin chloride and drop the other alkyltin impurities.

FDA has evaluated the data in the petition and other relevant material and concludes that the revised food additive specifications would result in no change in the use of the additives, that they are safe under their intended conditions of use, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Food Safety and Applied Nutrition (21 CFR 5.61), Part 178 is amended in § 178.2650 by revising paragraph (a) (1) and (4) to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2650 Octyltin stabilizers in vinyl chloride plastics.

* * * * *

(a) * * *

(1) Di(*n*-octyl)tin S,S'-bis(isooctylmercaptoacetate) is an octyltin chemical having 15.1 to 16.4 percent by weight of tin (Sn) and having 8.1 to 8.9 percent by weight of mercapto sulfur. It is made from di(*n*-octyl)tin dichloride or di(*n*-octyl)tin oxide. The isooctyl radical in the mercaptoacetate is derived from oxo process isooctyl alcohol. Di(*n*-octyl)tin dichloride has an organotin composition that is not less than 95 percent by weight of di(*n*-octyl)tin dichloride and not more than 5 percent by weight of tri(*n*-octyl)tin chloride. Di(*n*-octyl)tin oxide has an organotin composition that is not less than 95 percent by weight of di(*n*-octyl)tin oxide and not more than 5 percent by weight of bis[tri(*n*-octyl)tin] oxide, and/or mono *n*-octyltin oxide.

* * * * *

(4) (*n*-Octyl)tin S,S'S"-tris(isooctylmercaptoacetate) is an octyltin chemical having the formula $n\text{-}C_8H_{17}Sn(SCH_2CO_2C_8H_{17})_3$ (CAS Reg. No. 26401-86-5) having 13.4 to 14.8 percent by weight of tin (Sn) and having 10.9 to 11.9 percent by weight of mercapto sulfur. It is made from (*n*-octyl)tin trichloride. The isooctyl radical in the mercaptoacetate is derived from oxo process isooctyl alcohol. The (*n*-octyl)tin tricholoride has an organotin composition that is not less than 95 percent by weight of (*n*-octyl)tin trichloride and not more than 5 percent by weight of tri(*n*-octyl)tin chloride.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 1, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall

include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective January 2, 1985.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 19, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84–33936 Filed 12–31–84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 83F–0121]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylenebis(oxyethylene) bis(3-*tert*-butyl-4-hydroxy-5-methylhydrocinnamate) as a stabilizer for adhesives and certain polymers. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective January 2, 1985; objections by February 1, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 29, 1983 (48 FR 19472), FDA announced that a petition (FAP 3B3713) had been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that § 175.105 *Adhesives* (21 CFR 175.105), Part 175—Indirect Food Additives: Adhesives Coatings and Components (21 CFR Part 175); Part 176— Indirect Food Additives: Paper and Paperboard Components (21 CFR Part 176); Part 177—Indirect Food Additives: Polymers (21 CFR Part 177); Part 178—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (21 CFR Part 178); Part 179—Irradiation in the Production, Processing and Handling of Food (21 CFR Part 179); and Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) be amended to provide for the safe use of ethylenebis(oxyethylene) bis(3-*tert*-butyl-4-hydroxy-5-methylhydrocinnamate) as a stabilizer for adhesives and polymers except olefin-type polymers. Subsequently Ciba-Geigy amended the petition to restrict the additive to use in certain prior-sanctioned polymers and to certain uses in 21 CFR Parts 175, 176, and 177.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

The agency is listing the stabilizer only in 21 CFR 178.2010 with appropriate limitations. Multiple listings in other subsections are unnecessary because this regulation lists all allowed uses of the stabilizer.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Food Safety and Applied Nutrition (21 CFR 5.61); Part 178 is amended in § 178.2010(b) by alphabetically inserting in the list of substances a new item to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* *
Ethylenebis(oxyethylene)-bis-(3-*tert*-butyl-4-hydroxy-5-methylhydrocinnamate) (CAS Reg. No. 36443–68–2).	For use only: 1. At levels not to exceed 0.3 percent by weight of polystyrene and/or rubber modified polystyrene polymers complying with § 177.1640 of this chapter. 2. At levels not to exceed 0.3 percent by weight of acrylonitrile-butadiene-styrene copolymers used in accordance with applicable regulations in Parts 175, 176, 177, and 181 of this chapter. 3. At levels not to exceed 0.75 percent by weight of polyoxymethylene copolymers used in accordance with § 177.2470 of this chapter. The finished articles shall not be used for foods containing more than 15 percent alcohol. 4. At levels not to exceed 0.25 percent by weight of polyoxymethylene homopolymers used in accordance with § 177.2480 of this chapter. The finished articles shall not be used for foods containing more than 15 percent alcohol. 5. At levels not to exceed 0.2 percent by weight of rigid vinyl chloride plastics prepared from vinyl chloride homopolymers and/or vinly chloride copolymers used in accordance with a prior sanction or applicable regulations in Parts 175, 176, and 177 of this chapter. The vinyl chloride copolymers shall contain not less than 50 weight percent of total polymer units derived from vinyl chloride.

Substances	Limitations
	6. At levels not to exceed 0.1 percent by weight of vinylidene chloride homopolymers and/or vinylidene chloride copolymers used in accordance with a prior sanction or applicable regulations in Parts 175, 176, and 177 of this chapter. The vinylidene chloride copolymers shall contain not less than 50 weight percent of total polymer units derived from vinylidene chloride. 7. In adhesives used in accordance with § 175.105 of this chapter.
* * * * *	

Any person who will be adversely affected by the following regulation may at any time on or before February 1, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective January 2, 1985.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 19, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-34004 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 83F-0134]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the food additive regulations to provide for the safe use of poly [[6-[1,1,3,3-tetramethylbutyl]amino]-*s*-triazine-2,4-diyl][2,2,6,6-tetramethyl-4-piperidyl] imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a light stabilizer in polypropylene and high-density polyethylene. The docket number was inadvertently written as 84F-0134. This document corrects that error.

EFFECTIVE DATE: November 14, 1984.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-29744 appearing on page 44994 in the issue of Wednesday, November 14, 1984, "Docket No. 84F-0134" is corrected to read "Docket No. 83F-0134."

Dated: December 14, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-33935 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Acepromazine Maleate Tablets

Correction

In FR Doc. 84-32817 beginning on page 49090 in the issue of Tuesday, December 18, 1984, make the following correction:

On page 49091, first column, second line from the bottom of the page, the **EFFECTIVE DATE** should have read "December 18, 1984".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Ethylene Oxide

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final Rule: Supplemental statement of reasons.

SUMMARY: On June 22, 1984, the Occupational Safety and Health Administration (OSHA) published a final standard for ethylene oxide (EtO) that established a permissible exposure limit of 1 part EtO per million parts of air determined as an 8-hour time-weighted average (TWA) concentration (29 CFR 1910.1047, 49 FR 25734). The standard also includes provisions for methods of exposure control, personal protective equipment, measurement of employee exposure, training, signs, and labels, medical surveillance, regulated areas, emergencies and recordkeeping. The basis for this action was a determination by OSHA, based on human and animal data, that exposure to EtO presents a carcinogenic, mutagenic, genotoxic, reproductive, neurologic, and sensitization hazard to workers.

During the rulemaking proceedings that led to the establishment of the 1 ppm TWA, the issue of whether there was a need for a short-term exposure limit (STEL) for worker protection from EtO was raised. OSHA reserved decision on the adoption of a STEL at the conclusion of the rulemaking in order to permit peer review of the available evidence and to review more fully the arguments and pertinent data regarding the STEL issue. Upon receipt of the analyses from most of the peer reviewers, OSHA published a notice to that effect on September 19, 1984 (49 FR 36659) and invited public comment on the pertinent issues addressed in the peer reviews. Based on the entire rulemaking record, including the peer reviews and public comments received since June 22, the Assistant Secretary has determined that adoption of a STEL for EtO is not warranted by the available health evidence, and that a STEL is not reasonably necessary or appropriate for inclusion in the final EtO standard. OSHA has also asked that NIOSH fund certain additional studies related to whether a dose-rate relationship can be established for EtO, and OSHA will review the results of

those studies when they become available.

FOR FURTHER INFORMATION CONTACT:
Mr. James Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N 3641, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

I. Events Leading to This Action

On January 26, 1982, OSHA published an Advance Notice of Proposed Rulemaking (47 FR 3566) announcing its intention to conduct a reevaluation of its existing EtO standard of 50 ppm as a TWA. In addition to a request for public comment on the adequacy of 50 ppm as a TWA, comment was also solicited on the question of the necessity of a STEL as follows:

> Is a short-term or ceiling limit for EtO exposures necessary and why, and what would be the technological and economic feasibility of complying with that limit? (47 FR 3566)

On April 21, 1983, OSHA published a Notice of Proposed Rulemaking for EtO that proposed to reduce the permissible 8-hour TWA for EtO from 50 ppm to 1 ppm (48 FR 17284). Although a specific STEL for EtO was not proposed, public comment on that issue was solicited by the following questions:

> Is a short-term or ceiling exposure limit for EtO exposure necessary for the PEL or action level in view of recent information regarding increased spontaneous abortions and chromosome changes in workers exposed to EtO? What monitoring methods and control technology are available to meet such a short-term limit and what would be the economic burdens, if any, of such a limit? (48 FR 17284)

and,

> What are the most suitable methods for determining compliance with EtO permissible exposure limits (PEL's) of 0.5 and 1 ppm as 8-hour time-weighted averages and for ceilings ranging from 5 to 50 ppm for 30 minutes or less? What are the problems associated with such monitoring methods? Do they require special training or experience? Are there serious limitations as to the accuracy or precision of the available sampling techniques? (48 FR 17248)

Numerous comments and other data were received by OSHA in response to the STEL questions set forth in the ANPR and NPRM (Ex. 168). The final EtO rule published on June 22, 1984, (49 FR 25734) reserved decision on the question of whether the standard should contain a STEL (Ex. 167A).

In the June 22, 1984 final rule, OSHA stated that upon its review of comments submitted by the Office of Management and Budget (OMB) pursuant to Executive Order 12291 (Ex 162), OSHA determined that certain issues relating to a STEL were important and merited further consideration. In particular, OSHA believed that questions concerning the following issues merited additional review:

—Quantification of the risk avoided by issuance of the STEL. In light of the requirement of the new standard to meet a 1 ppm PEL;
—The need for a STEL given current exposures and the 1 ppm PEL of the new standard;
—The appropriateness of relying on studies by Hemminki, Yager, and Johnson & Johnson as partial support for the issuance of a STEL;
—A decision by the American Conference of Governmental Industrial Hygienists (ACGIH) not to recommend a STEL for EtO; and
—The economic and technical feasibility of a STEL without the use of respirators.

To develop the fullest possible administrative record, all exhibits in the docket relating to the STEL (compiled as Ex. 168), were submitted to a number of scientifically qualified peer reviewers for comment, analysis, and criticism. The peer reviewers filed statements that were placed in the public docket.

Public comments on the statements filed by the peer reviewers and on the issues raided by OMB on the June 14, 1984 draft standard were solicited by a **Federal Register** notice published September 19, 1984 (49 FR 36659).

As noted by OSHA in its June 22 **Federal Register** notice, the purpose of the extended period of consideration of the STEL issues was to enable peer reviewers and the public to consider the available data on short-term EtO exposures and to submit their detailed evaluations of the evidence to the Agency. This, in turn, would allow OSHA to perform a more comprehensive examination of the need for a STEL, based upon the existing record and the analyses contained in the peer review and public comments. Both of these goals have been accomplished, and OSHA is most appreciative of those persons and organizations that participated in this phase of the rulemaking on EtO.

The peer reviews and public comments were particularly helpful in elucidating and explaining concepts which the Agency had not evaluated in depth in developing the June 22 final rule, but which are of considerable importance in the final determination of the STEL issues. For example, the relevance of the establishment of a dose-rate effect to the need for a STEL is explored at great length in the new materials. The peer reviews, in particular, contain extensive new explanations and evaluations of this relationship as it relates to the available health data on EtO, especially in the area of mutagenesis. The peer reviews and public comments also helped to clarify the positions of various experts and organizations which have been involved in the evaluation of the health evidence. For example, ACGIH employed this extended comment period to clarify its position of STEL-related issues, which was not totally clear during the earlier phase of the proceeding. In these and other details, the materials received by OSHA since June 22 filled a number of gaps in the Agency's knowledge, and have enabled the Agency to reach a final determination on the STEL.

II. Identification of Peer Reviewers

OSHA requested peer review of the STEL data by 23 individuals and organizations. Reviewers were asked to provide comment on those aspects of the STEL issues that were within their area of expertise (toxicology, epidemiology, industrial hygiene, etc.). OSHA contacted the following peer reviewers (A number in parentheses in the list below reflects OSHA's receipt of the person's review and the exhibit number of that review in Docket H–200):

Elliot Harris, Ph.D, Deputy Director, National Institute for Occupational Safety and Health (Ex. 181)
Ralph Allen, President, American Academy of Industrial Hygiene (Ex. 175)
Vernon L. Carter, Jr., DVM College of Veterinary Medicine, Ohio State University (Ex. 178)
William Kelley, Executive Director, American Conference of Governmental, Industrial Hygienists (Ex. 191)
Dr. Donald Hoops, Executive Director, American Occupational Medical Association (Ex. 186)
Dr. L.B. Russell, President, Environmental Mutagen Society (Ex. 180)
Matilda Babbitz, Executive Director, American Association of Occupational Health Nurses (Ex. 180)
Dr. Fred Oehme, President, Society of Toxicology
Dr. John Crum, Executive Director, American Chemical Society (Ex. 170)
Richard Adamson, Ph.D., National Cancer Institute (Ex. 172)
David P. Rall, M.D., Ph. D., National Institute of Environmental Health Sciences (Ex. 171)

The following 12 members of the Department of Labor's National Advisory Committee on Occupational Safety and Health were also requested to review and submit comments on the STEL issue:

Frank R. Barnako, Chairman of the Board, National Safety Council (Ex. 174)
Joyce C. Hearn, Representative, South Carolina Legislature
Sidney Shindell, M.D., Chairman, Department of Preventive Medicine, The Medical College of Wisconsin (Ex. 176)
Robert B. Taylor, Director, Division of Occupational Safety and Health, Tennessee Department of Labor
Tom Baker, President, Baker Electric Company
Bruce W. Karrh, M.D., Vice President—Safety, Health and Environmental Affairs, E.I. duPont deNemours and Co., Inc. (Ex. 173)
John J. Donlon, Business Manager, Colorado Building and Construction Trades Council
R.V. Durham, Director, Safety and Health Department International Brotherhood of Teamsters, Chauffers, Warehousemen & Helpers of America (Ex. 179)
B. Gawain Bonner, Director, Safety and Health, Tenneco, Inc.
Ronald H. Davis, Vice President, Industrial Relations, Carolina Steel Corporation (Ex. 183)
Marcus M. Key, M.D., Professor of Occupational Medicine, The University of Texas Health Sciences Center (Ex. 177)
William E. McCormick, Former Managing Director, Amercian Industrial Hygiene Association

III. Summary of Peer Reviews and Public Comments

In addition to the peer reviews, OSHA received 41 comments in response to the September 19, 1984, FR notice. Those in opposition to adoption of a STEL generally argued that the available scientific evidence did not justify issuance of a short-term limit. They contended that the STEL must be based on, among other reasons, the observation of either (1) acute effects occurring above a given level or (2) on the demonstration of a dose-rate effect associated with exposure to EtO. Those parties opposing a STEL argued that neither of these effects have been demonstrated to occur from exposure to EtO.

Proponents of adoption of the STEL generally contended that (1) the collective scientific evidence demonstrates adverse reproductive and mutagenic effects attributable to short-term EtO exposures and (2) the STEL is necessary to reduce the significant risk of cancer still present with the 1 ppm TWA. These arguments and others, and the comments presented on both sides of these issues by both public commentors and peer reviewers are discussed below.

A. Comments Opposing a STEL

Parties opposing adopton of a STEL for EtO reiterated several arguments presented prior to this supplemental rulemaking and raised new points, accompanied by new argument and calculations. They argued that:

—No evidence has been presented indicating that the potential effects of exposure to EtO are related to dose-rate (i.e., pattern of exposure);
—The collective findings of Yager, Embree, Generoso, LaBorde and Kimmel, Johnson, Garry, Pero, and Hemminki do not form a reasonable inference for a STEL;
—The STEL is "unsupported b any reasonable risk assessment or inference from the scientific evidence;"
—The studies by Hemminki, Yager, and Johnson and Johnson are flawed and inadequate to support a STEL;
—A STEL can only be justified through quantification of risk;
—Compliance and measurement feasibility for a STEL have not been demonstrated;
—The 1 ppm TWA and 0.5 ppm action level provide adequate protection from short-term exposure;
—The types of controls that will need to be employed to meet the TWA will also result in low short-term exposure;
—There is no established relationship between sister chromatid exchanges and adverse health; and
—The ACGIH has concluded that the toxicological data provides inadequate support for a STEL.

Peer Review Analyses

Those peer reviewers opposing a STEL included:

Dr. Bruce Karrh, Vice-President for Safety, Health and Environmental Affairs, E.I. duPont de Nemours Co. (Ex. 173);

Ralph E. Allan, President, American Academy of Industrial Hygiene (Ex. 175);

Dr. Sidney Shindell, Professor and Chairman of the Department of Preventive Medicine, Medical College of Wisconsin (Ex. 176);

Dr. Marcus Key, Professor of Occupational Medicine at the University of Texas' School of Public Health (Ex. 177);

Dr. Vernon Carter, Consultant in Occupational and Environmental Toxicology (Ex. 178);

Environmental Mutagen Society (committee consisting of Dr. R.J. DuFrain, Senior Scientist of the Medical and Health Science Division of Oak Ridge Associated Universities; Dr. W.M. Generoso, Senior Scientist, Oak Ridge National Laboratory; and Professor S. Abrahamson, Departments of Zoology and Genetics, University of Wisconsin) (Ex. 186); and

Donald L. Hoops, Ph.D., Executive Director, American Occupational Medical Association (review by Ernest M. Dixon, M.D., P.A. Environmental Health Consultants, and G. Anstadt, M.D.) (Ex. 187).

The Environmental Mutagen Society (Ex. 186) provided for review of the EtO STEL data by a committee of experts consisting of Dr. R.J. Du Frain, Senior Scientist of the Medical and Health Science Division of Oak Ridge Associated Universities; Dr. W.M. Generoso, Senior Scientist of the Biology Division, Oak Ridge National Laboratory; and Professor S. Abrahamson, Departments of Zoology and Genetics, University of Wisconsin.

The conclusion of the committee was that:

> The prime issue as we all see it (and have each done considerable research on in our careers) is one of dose and dose—rate. Namely, is the biological outcome (the yield of induced damage) affected by the manner and delivery of the dose (exposure)? The evidence required to support a STEL would have had to demonstrate that for some end-point (SCE, chromosome damage, time to tumor etc.) there was a *greater yield* of damage (effect) from an acute treatment as compared to a chronic or fractionated treatment for *the same total dose*. No such evidence was presented. (emphasis in original) (Ex. 186)

The commitee contended that before a STEL can be justified there would have to be an observed dose rate effect over a certain dose ranged, and at the dose limitation imposed there would be an influence of [cellular] dose rate. They concluded that no such effect has been established in the Yager, Johnson and Johnson, or Hemminki studies.

Specific comments on the Yager, Johnson and Johnson, and Hemminki studies were provided by Generoso and DuFrain. With respect to the Yager study, DuFrain stated:

> In this report in *Science*, 22 individuals were evaluated for SCE frequency in their peripheral blood lymphocytes. Extensive questionnaries were filled out and EtO measurements in the breathing zone of some of these individuals were taken while they were performing their jobs which exposed

them to EtO. Attempts were then made determine their cumulative EtO "dose" in milligrams for the six months preceding the blood collection for SCE analysis of the peripheral lymphocytes. Of the 22 individuals, 16 were listed in the table (2) as 0 dose (5 non-smokers and 11 smokers). In the exposed individuals, there were 3 non-smokers and 3 smokers in the "low-dose"' category, and 2 non-smokers in the "high-dose" category, and by *my calculations* I would not declare these groups to be significantly different from their controls (matched for smoking habits). This leaves 3 smokers in the "high-dose" group that show significantly elevated SCE frequencies. From this amount of data one cannot show a dose-response relationship for these short burst-type exposures to EtO. Therefore, this study does not support the inclusion of a STEL. (emphasis in orginal).

With respect to the Johnson and Johnson study, DuFrain stated that that study:

. . . clearly shows that occupational EtO exposure leads to elevated SCE levels in peripheral blood lymphocytes, but I don't think the inference of dose-rate effects are possible from the results. Also, individual "dose" estimates or even speculative calculations were not available for the subjects. I might also point out that the results of this study show smoking, gender, and age are all confounding variable in human lymphocyte SCE analysis, which was not taken into account in the Yager study of 22 individuals. [Ex. 186]

DuFrain further stated that:

The larger Johnson and Johnson study also demonstrates that occupational EtO exposure causes chromosome aberrations and elevates the SCE frequency in peripheral blood lymphocytes of the workers. Of greater concern to me, is the DeMuth letter statement in the last sentence of page 6 that . . . "there is universal agreement that SCEs should not be the basis of regulations because no adverse health effect has been linked to elevated SCEs". This subtle play on words ignores the occurrence of elevated SCEs in blood lymophocytes of individuals with Bloom's syndrome who have incidence of malignancy. What should be stated is that no known adverse health effect has been linked to occupationally elevated SCEs. [Ex. 186]

In addressing the contention that the studies by Yager and Johnson and Johnson are "flawed", DuFrain stated that:

It is true that the research in these two reports does not provide evidence in favor of a STEL in addition to a 1 PPM PEL; however, I question the term "flawed". Both of these studies have used standard or acceptable methods for cytogenetic evaluations, and what appear to be appropriate, or at least acceptable, statistical methodologies. Questioning the use of means and suggesting comparisons of medians is naive in terms of these or any SCE studies, for it is precisely the outlier cells that are of some scientific interest and they do *not* adequately influence the robust statistics such as medians.

With respect to Hemminki, Generoso concluded that although the likelihood that EtO exposure may lead to higher abortion frequency cannot be ruled out, the study "has no bearing whatsoever on the question of dose-rate effect".

In addressing the possible reason for the conclusion that a dose-rate effect has not been observed for EtO, Du Frain offered the following:

. . . for high energy radiation (X or gamma rays) one is unable to determine a difference in biological damage when 1000 millirem is received in one minute or 1 millirem is received per minute over 1,000 minutes or longer, because the total dose is so low, there is no dose rate effect! This may well be a possible outcome resulting from the introduction of a 1 ppm 8-hour limit exposure [for EtO].

Both Generoso and Du Frain suggested that further research be performed in order to resolve this issue.

Bruce W. Karrh, M.D. (Ex 173), of duPont, concluded in his peer review that the key factors in considering adoption of a STEL for EtO are the frequency of excursions that are above the 1 ppm TWA, the variability of EtO concentrations in the workplace, and the availability of supporting health data. Dr. Karrh stated that without sufficient toxicological and exposure data to justify a specific STEL, the excursion limit recommendation by the ACGIH seems appropriate (See discussion under "ACGIH TLV Recommendations").

The American Academy of Industrial Hygiene (AAIH) (Ex. 175) concluded that "the need for a short-term exposure level is not supported by appropriate scientific findings which suggest the elimination or reduction of significant risk of harm."

With respect to the Hogstedt leukemia studies (Exs. 2–8, 2–22) and the Hemminki reproductive study (Ex. 6–7), the AAIH considered them to be "equivocal" and stated further that although it is reasonably clear that EtO is a carcinogen in rats (Exs. 2–9, 6–6, 6–16) and is genotoxic in humans, "a clear demonstration that EtO is a human carcinogen or that it produces reproductive effects has not been made."

Concerning data in the record relating to SCE's and chromosome aberrations (Exs. 4–10, 4–17, 6–12, 6–13, 6–15, 137 A, B, C, D) AAIH stated that:

There is . . . no current consensus concerning the relationship between DNA damage and the likelihood of an ultimate clinical outcome such as cancer. This is a particular problem given the weak epidemiological evidence associating EO exposure with delayed effects. It should also be borne in mind that although SCEs and chromosome aberrations are indices of DNA damage, the endpoints are different, they are not necessarily correlated, and the relevance of one or the other in a given application is not obvious. (Ex 175).

AAIH also contended that neither the Yager (Exs. 4–10, 6–15), Johnson and Johnson (Exs. 4–17, 137 A, B, C) nor Pero (Ex. 6–13) studies demonstrate that the amount of DNA damage received as a result of short-term exposures to EtO is greater than that received by workers receiving the same cumulative dose of EtO during constant exposure conditions. The AAIH further pointed out that of the studies cited above, *"none of them was designed to test whether the fractionation of the EO dose is more important to the likelihood of a clinical outcome"* (AAIH emphasis). The AAIH concluded that additional research is necessary in order to substantiate the need for adoption of a STEL for EtO.

Sidney Shindell, M.D., (Ex. 176) agreed with the statements (Ex. 162) that ". . . the studies OSHA cites . . . all have major flaws and provide no support for the STEL." Dr. Shindell also contended that "the objective of minimizing or avoiding peak exposures would be more important than enactments of an arbitrary level indicating to what extent this objective needs to be achieved".

Marcus M. Key, M.D. (Ex. 177) agreed with ACGIH's position that suspect human carcinogens such as EtO should not be assigned specific STEL's. In opposing a specific STEL, however, he did express a concern that for these substances "the concentration as a maximum value may be as important as the dose (average concentration x time) in induction of cancer."

Vernon L. Carter, Jr. DVM (Ex. 178) argued that neither the draft STEL risk assessment performed by OSHA, nor the available health data justify adoption of an EtO STEL. (OSHA estimated in its June 14, 1984 draft final standard that the cancer risk of 12–23 per 10,000 with a 1 ppm TWA would be reduced to 4–7 per 10,000 with addition of a 10 ppm STEL.) Dr. Carter stated that "Given the unresolved questions about the use of mathematical models and the relatively small difference between those two sets of numerical values, . . . this alone does not justify a STEL." With regard to the health data, Dr. Carter found the studies by Hemminki, Yager, and Johnson and Johnson to be inconclusive. In addressing the Hemminki study, Dr. Carter stated that:

Although this study indicates that adverse reproductive effects may possibly occur at some undermined level of EtO exposure, it is my opinion that this study does not justify a

10 ppm STEL due to lack of adequate exposure monitoring.

Dr. Carter found that the observed increase in SCE reported in the Yager and Johnson and Johnson studies is "probably valid." With respect to the health implications associated with increased frequency of SCE, however, he stated that:

As yet no relationship has been established between this response and effects of concern such as cancer and reproductive problems. It is my opinion that until such a relationship is better established, a STEL to control this response is not justified. (Ex. 178)

The American Occupational Medical Association (Ex. 187) submitted peer reviews by two of its physician members—Ernest M. Dixon, M.D., P.A., Environmental Health Consultants, and G. Anstadt, M.D.

Dr. Dixon contended that: (1) Short-term low level exposure is not the basic issue with EtO but that the significant risks are related to long-term exposure; (2) none of the health studies (Hemminki, Yager, Johnson and Johnson) adequately addresses short-term exposures at lower levels or demonstrates significant adverse effects; (3) long-term studies are not relevant for addressing short-term effects; (4) that 1 ppm TWA and 0.5 ppm action level provide adequate control from short-term excursions; (5) a short-term exposure limit would result in very little reduction of overall exposure; and (6) a STEL is only appropriate for agents having severe acute toxicity potential. Dr. Anstadt stated that there is no direct evidence to support a short-term exposure limit or to calculate a particular value for one. He also noted that there are presently no appropriate studies addressing the issue of dose-rate and that the issue for the need for a STEL for EtO will not be resolved until appropriate studies are performed.

Public Comment

Commentors opposing issuance of STEL for EtO were in basic agreement that the need for a STEL is unsupported by any reasonable risk assessment or inference from the scientific data. (Exs. 189–1, 189–3, 189–4, 189–6, 189–7, 189–10, 189–15, 189–16, 189–17, 189–18, 189–20, 189–21, 189–25, 189–28, 189–32, 189–28, 189–31, 189–32, 189–36). The American Industrial Hygiene Association (AIHA), stated that a STEL is "without demonstrated necessity" (Ex. 196). Other commentors reiterated the arguments that the studies by Yager, Johnson and Johnson, and Hemminki are sufficiently flawed to preclude them for use as the basis for adoption of a STEL. The Association of Ethylene Oxide Users (Ex. 189–15), Ethylene Oxide Industry Council (Ex. 189–16), and the Health Industry Manufacturers Association (Ex. 189–18) cited the small study population in the Yager study and argued that statistical significance in observed SCE frequencies disappears if median rather than mean SCE rate is used to compare exposed employees with the control group. The Johnson and Johnson study was criticized for its limited study population, the small number of EtO operations tested, the procedures for determining exposure, the methodology used to determine significance of risk, and the possibility that exposure to other chemicals occurred among the study group. The Hemminki study was faulted by these commentors as providing inadequate exposure data, being subject to study group reporting and selection bias and exposure to other chemicals, and inadequate control of other confounding variables.

AIHA (Ex. 196) stated its position succinctly:

The selection of a regulated STEL should not be an arbitrary multiple of the TWA exposure limit but rather should aim at preventing such other adverse effects not common examples of such other effects are (1) a disproportionate increase in responses for excursion doses above the TWA (i.e., nonlinear effects) or (2) the onset of an acute response not important near the TWA (e.g., acute irritation versus chronic damage).

The 3M Company (Ex. 189–32) stated that it "recognizes that the Hemminki, Johnson and Johnson, . . . Yager . . . research raise important questions about the impact of peak exposures" but that the "significance of short-term peak concentrations is, at best, unclear at this time."

In addition to questioning the strength of the Yager and Johnson and Johnson studies, commentors argued that the biological endpoints in those studies, chromosomal aberration and SCE, could not be correlated to the subsequent occurrence of adverse health effects, and more importantly for determining the need for a STEL, these endpoints were not associated with dose-rate effect (Ex. 189–15, 189–16, 189–18, 189–32).

For example, regarding dose-rate the EOIC stated that:

In order for the conclusion to be drawn that short-term exposures to EtO are more effective at inducing SCE in human peripheral lymphocytes than the same dose received over a long time period, such as an 8-hour working day, data for both exposure conditions have to be available and obtained by the same laboratory preferably co-incidentally. (Ex. 189–16)

In commenting on the Johnson and Johnson SCE data, the EOIC stated that:

The data reported by Johnson and Johnson to date on the induction of SCE in persons occupationally exposed to EtO do indicate that there are some increases in some of the exposed groups at some of the sampling times when compared to worksite controls. However, the interpretation and significance of the data is somewhat handicapped by the very small number of individuals in some of the exposed groups, and also by the potential influencing factor of inter-scorer variation. In addition, it is not possible from the data as presented to relate individual exposure or type of exposure to SCE or chromosome aberration frequencies. For these reasons, it is not possible, even if it were desired, to relate frequencies of SCE to the same exposure received chronically as long-term, low exposure rate exposures or intermittently as short-term, higher exposure rate exposures. In addition, as has been discussed already, since SCE frequencies will at best only be indirectly related to exposure, whether chronic or acute, it is not possible to determine the need for or an appropriate value for a STEL from such data. The lack of an association between SCE and adverse human health effects simply adds weight to this view. (Ex. 189–16)

Another major argument raised by commentors in opposition to the need for a STEL for EtO is that the 1 ppm TWA will itself result in appropriate control of short-term exposures (Exs. 189–16, 189–17, 189–18, 189–24, 189–29, 189–32, 189–34, 189–38, 189–40). For example, Union Carbide stated that:

In reality, meeting the 1 ppm TWA_8 is, in and of itself, a challenge requiring careful analysis of all potential sources of employee exposure by professional industrial hygienists. Each potential source is addressed on an item-by-item basis, either through engineering controls or other methods. In a mathematical sense, one can allow only very limited short term exposures to occur for a 15 minute period(s) and still meet the PEL. For example, if this is allowed four times per an eight hour shift (8), the excursion would be limited to 8 ppm. If the short term exposure occurs only once per eight-hour shift, a maximum 32 ppm short term exposure level can occur. Both of these hypothetical cases assume no background exposure for the remainder of the employee's eight-hour work shift—an impractical assumption given the reality of plant environmental exposures. [Ex. 189–34]

The EOIC provided the following discussion on the short-term control implied by the 1 ppm TWA (Ex. 189–16)

As the EOIC explained in its earlier comments, the measures necessary to achieve compliance with the new PEL of 1 ppm, measured as an eight-hour, time-weighted average (TWA), will themselves result in adequate control of short-term exposures. There is therefore no need for OSHA to select a single, arbitrary number to

be imposed as a short-term exposure limit applicable to all employers.

First, as a mathematical matter, the PEL of 1 ppm (TWA) sets an effective, maximum short-term exposure limit of 32 ppm, measured over a 15-minute period. Moreover, this maximum short-term level would be allowed *only* if there were absolutely no other exposure to EO the remainder of the working day. Any other exposure would lower the level that could be allowed to occur during the 15-minute period. Because employee exposure to EO will not likely be limited to one 15-minute period, a 1 ppm PEL effectively requires that 15-minute exposures be kept considerably lower than the theoretical 32 ppm level * * * the existence of additional periods of exposure will necessarily result in *lower* maximum short-term exposures for any 15-minute period.

The EOIC goes on to state that:

The position that the engineering controls necessary to achieve the PEL (and especially the action level) require good control of short-term exposure is also supported by the NIOSH peer review comments (Exhibit 181). NIOSH states that the 1 ppm PEL will actually require employers to maintain workplace concentrations near 0.5 ppm in order to ensure that random variation does not result in exposures exceeding the PEL. It further states that "it appears that *some* short-term exposure limit is necessary in order to satisfy the employer that the 1 ppm PEL has not been exceeded." (Emphasis supplied) This is precisely the EOIC point—that the 1 ppm PEL will, as a practical matter, require employers to control short-term exposures. As NIOSH states, employers will be required to reduce short-term exposures to "some", fairly low level. However, the particular level that may be appropriate will vary from facility to facility. There is simply no basis on which to justify a particular, single limit that applies uniformly to every employer * * * a basic tenet of good industrial hygiene to comply with the PEL is that control of overall exposure levels includes control of peak or excursion levels as well. In this regard, the American Conference of Governmental Industrial Hygienists suggests that, as an indication of good process control, exposures should not exceed three times the TWA for more than 30 minutes during the work day and should not exceed five times the TWA. These guidelines, although not easily applicable to very low TWA's (where the allowed range would be extremely small) or to processes where the exposure profile involves episodic fluctuations, suggest that the trained industrial hygienists who will be involved in implementing controls to achieve the PEL will also be concerned with, and will implement controls to reduce, short-term exposures. Finally, it should be noted that compliance with a PEL of 1 ppm (TWA) will require, as OSHA has acknowledged in the standard, the use of respirators at times when employees might be exposed to higher, short-term levels of EO. Thus, these employees will already be protected from peak exposures.

Other provisions of the standard, aside from the PEL and the action level, will also contribute to the reduction of short-term exposures. The requirements for employee education and training, and for the preparation of written compliance plans, will ensure that both employers and employees are aware of potential higher exposures. This in turn will lead to the institution of measures to assure control of such exposures.

B. Comments in Support of a STEL

In brief, the peer reviewers and public commentors who favored the need for a STEL expressed the following arguments in support of their position:

—A STEL would reduce the significant risk of cancer still present with the 1 ppm TWA;
—The collective scientific data provide sufficient qualitative support for a STEL, and a quantitative assessment of risk is unnecessary;
—Adverse reproductive and mutagenic effects are attributable to short-term EtO exposure concentrations presently being experienced by workers; although these risks may not be quantifiable they are qualitatively demonstrated;
—Additional documentation suggests that sister chromatid exchange (SCE) should be viewed as an indicator of DNA damage which could potentially lead to the clinical manifestation of cancer; and
—Compliance with a STEL of 10 ppm is feasible.

The peer reviews and public comments provided no new significant studies or other substantive health data in support of the need for a STEL, and essentially relied on the data in the record as of June 22. However, they did contain additional explicit discussion of the rationale for adoption of a STEL.

Peer Review Analyses

Peer reviewers supporting a STEL included:

David Rall, M.D. Ph.D., Director, National Institute of Environmental Health Sciences of the Public Health Service, Department of Health and Human Services (Ex. 171);

R.V. Durham, Director of the Safety and Health Department of the International Brotherhood of Teamsters (Ex. 179);

Matilda Babbitz, R.N., Executive Director of the American Association of Occupational Health Nurses (Ex. 180); and

Elliot Harris, Ph.D., Director, National Institute for Occupational Safety and Health, Public Health Service, DHHS (Ex. 181).

The National Institute of Environmental Health Sciences (NIEHS) contended that a STEL is needed based on exposure pattern (short bursts), epidemiological data on EtO sterilization workers, and supporting data indicating increased chromosomal aberration and sister chromatid exchange frequencies among sterilization workers (Ex. 171). NIEHS pointed to data in the record that shows that short-term exposures experienced by sterilizer workers often exceed 50 ppm (Exs. 4–10, 6–15, 11–106). The Institute indicated that the epidemiological studies by Hogstedt et al. (Ex. 2–8) reporting an increased incidence of leukemia, and Hemminki et al. (Ex. 6–7) reporting significantly elevated spontaneous abortion rates among sterilizer workers, are relevant to the STEL question since the exposure patterns leading to the observed health effects in the studies were short-term in nature. NIEHS acknowledged that the Hogstedt sterilization worker study has several limitations including small cohort size and potential cohort selection bias but contended that the data gain additional importance when viewed in conjunction with another Hogstedt et. al study (Ex. 6–8) that also reports an excess leukemia risk among sterilization workers.

NIEHS acknowledged that there are potential weaknesses in the Hemminki et al. study, including recall or reporting bias introduced by the study questionnaire, a potential cohort selection bias, and inadequate control of confounding factors such as maternal age and prior reproductive or medical history. NIEHS concluded, however, that the Hemminki study demonstrates considerable internal consistency, and that the conclusions of the questionnaire are supported by the hospital discharge data which should be free of reporting bias. Taken in conjunction with supporting bioassay data that demonstrate the feto-toxic potential of EtO, NIEHS states that this study cannot be discounted.

Finally, NIEHS argued that available cytogenic data on EtO workers support the need for a STEL. These studies include those of sterilizer workers by Pero et al. (Ex. 6–13), reporting increased chromosomal aberrations and increased unscheduled DNA synthesis in peripheral blood, and of Johnson and Johnson (Exs. 11–113, 150), reporting increased SCE frequency and a dose-response effect. NIEHS summarized the implications of the cytogenetic data as follows:

The available data demonstrate that sterilization workers may experience increased SCE frequency even given relatively low TWA EtO exposures thus suggesting a possible role for short-term elevated exposures. While the predictive value of SCE data with regard to human health outcome is not yet known, this manifestation is generally regarded as an interaction with DNA material during the synthesis phase of the cell cycle. The importance of SCE data in humans gains

significance given similar findings in exposed animals and positive results of carcinogenesis bioassay studies with ethylene oxide. (Ex. 171)

Adoption of a STEL was also supported by NACOSH member R.V. Durham of the Teamsters Union (Ex. 179). Durham stated that due to the peak nature of the majority of EtO exposures, failure to adopt a STEL would be imprudent industrial hygiene practice. With regard to the epidemiological studies by Hemminki (Ex. 6–7), Yager (Ex. 6–15), and Johnson and Johnson (Exs. 11–113, 150), Durham stated that:

While we have observed some limitations with each of these studies, we feel that as a whole these data comprise a body of overwhelming evidence in support of a STEL. The results of the Hemminki study are strikingly consistent with animal studies. The Yager study results are strikingly consistent with results from animal test systems as well. We believe that such a wealth of information cannot be overlooked. (Ex. 179)

With regard to quantification of the risk avoided by adoption of a STEL, Durham argued that:

Although OSHA was unable to quantitatively assess the risks [in their June 14, 1984 draft final standard] indicated by these studies, they were able to qualitatively infer that the human and animal data on adverse health effects warrant a STEL. We believe, therefore, that contrary to OMB's assertion that OSHA had not met the legal test of "significant risk" under the Supreme Court's Benzene decision, *IUD, AFL–CIO* v. *American Petroleum Institute*, OSHA has made an accurate "inference from the available scientific evidence" in support of a STEL. (Ex. 179)

Finally, Durham cited evidence in the record provided by industry that demonstrates the feasibility of complying with a STEL (Exs. 4–49, 11–68, 11–71, 11–113) and further pointed out that Johnson and Johnson, Texaco, Medtronic, and Rohn and Haas have adopted in-house ceiling levels or peaks ranging from 5 to 15 ppm.

The American Association of Occupational Health Nurses (AAOHN) (Ex. 180) supported the need for a 5 ppm STEL with a ceiling value not to exceed 10 ppm at any time. AAOHN's concern with a STEL for EtO relates to the brief but high exposures to EtO of hospital employees using it as a sterilant. AAOHN pointed to data indicating that EtO exposure increases mutation rates in numerous species, causes dose-related increases in leukemias and other tumors in rats, reduces sperm count and function in monkeys and elevates the frequency of SCEs. With regard to the available studies, AAOHN stated that:

While recognizing the limitations of the preliminary work by Morgan, et al. (1981) and Hogstedt, et al. (1979) we concur with OSHA in the current proposed rule: "OSHA believes exposure to EtO may increase the risk of malignancies, particularly leukemia." The work by Yager (1983) and Johnson and Johnson (1983) only serve to reaffirm this composite view. In view of the consistent findings regarding adverse health effects from low level exposure we feel OSHA appropriately used the studies by Hemminki, Yager, Johnson and Johnson as partial support for the issuance of a STEL.

OSHA states that at the 1 ppm PEL the risk of excess cancer deaths is 1 to 2 cases per 1,000 workers exposed to EtO. We find this risk excessive and recommend an STEL at half the 10 ppm valve proposed by OSHA. Although, 10 ppm for a 15-minute STEL would be desirable over none at all we think EtO exposures greater than 10 ppm should not be permitted. This conclusion is from findings that EtO causes chromosomal damage and thus is a potential human carcinogen and that EtO causes adverse reproductive outcomes in humans.

Due to the extreme intermittancy of exposure and its short duration we strongly feel that without a STEL a TWA standard alone will not adequately protect workers exposed to EtO in hospital sterilizers. (Ex. 180)

The fourth peer reviewer supporting the need for a STEL was the National Institute for Occupational Safety and Health (NIOSH) (Ex. 181). NIOSH pointed to data in the record which indicate that hospital sterilizing staff encounter intermittent peak exposures to EtO and that the best way to control exposures is to control the peak exposures (Yager, Exs. 4–10, 31; Roy, Tr. 216; AFGE, Tr. 1197). NIOSH did not agree with arguments that a 1 ppm TWA will by itself set an effective short-term limit. NIOSH contended that the example that a 1 ppm TWA sets a theoretical maximum 15 minute exposure level of 32 ppm is not a realistic argument. NIOSH stated that:

As detailed above [Ex. 4–10], EtO exposures typically occur as brief peak exposures that appear to range between 75 ppm and 125 ppm over the 3 to 4 minute period required for workers to perform their tasks of removing materials from the sterilizer and transferring them to the aerator. (Ex. 181)

NIOSH further stated that:

* * * when EtO exposures are discussed in terms of 8 hour TWA's or 15 minute periods the significance of the high 3 to 5 minute exposure concentrations documented by Dr. Yager is lost. Clearly, the actual exposure concentrations documented by Dr. Yager [Ex. 4–10, Ex. 31] are not consistent with the theory [of a built in 32 ppm STEL for 15 minutes]. (Ex. 181)

On a related point, as noted earlier, several parties opposing a STEL argued that a 1 ppm TWA would actually result in employers achieving EtO levels below 1 ppm in order to allow a margin of safety and avoid exceeding the PEL due to random variation. NIOSH responded to this argument as follows:

As a practical matter, an employer would have to maintain workplace concentrations in the vicinity of 0.5 ppm in order to ensure that an "exceedence due to random variation" had not occurred. The [32 ppm 15 minute] scenario presented by Drs. Voress and Hecker and Mr. Rampy (of EOIC), however, considers only a 1 ppm PEL and doesn't address the issue of an action level. If short term exposures never exceeded 16 ppm, then an employer could be reasonably assured that 8 hour TWA exposures would not exceed 1 ppm. However, neither the EOIC nor OMB appears to have considered this point. Review of Dr. Yager's data clearly indicates that short term exposures are far in excess of 16 ppm. Therefore, as a practical matter, it appears that some short term exposure limit is necessary in order to satisfy the employer that the 1 ppm PEL has not been exceeded. (Ex. 181)

The necessity of adoption of a STEL based on the studies in the record showing observed adverse health effects was addressed at length by NIOSH. NIOSH contended that a reasonable inference from the collected data can be made that short-term exposure to EtO can lead to adverse health effects in workers. NIOSH argued that: (1) Data demonstrates that EtO reacts with the genetic material of at least 13 different species with the observation of persistence of genetic damage in humans; (2) EtO exposure is capable of producing adverse mutations in mammalian germinal cells that are heritable and which can adversely affect the human genome and reproductive capacity; (3) EtO exposure causes chromosomal aberrations (Yager, Johnson and Johnson) in workers; (4) the basic findings by Hemminki (Ex. 6–7) that spontaneous abortions result from EtO exposure cannot be discounted; and (5) data demonstrates that EtO is a potential human carcinogen.

The carcinogenic potential of EtO was described by NIOSH as being relevant to the STEL issue as follows:

There is agreement that EtO is a potential occupational carcinogen. The exact mechanism of the carcinogenic process is, however, debatable. At one extreme, it is argued that only one event is needed to initiate the carcinogenic process; at the other extreme, it is believed that many events are required. In the first example, the response is linear; in the latter example, the response incorporates a threshold concentration below which a response will not occur.

Ethylene oxide appears to exert its effects by alkylation of DNA. Under most circumstances, DNA bases that have been chemically modified are removed. If, however, damage occurs at a rate that

exceeds the cell's ability to effect repair, then the damage is likely to persist. Ehrenberg [8] has reported finding such persistent damage among workers exposed once at high EtO concentrations. It is possible that persistent chromosomal damage is also occurring among workers exposed to EtO during sterilization processes when exposures are typically intermittent peak exposures but well below those described by Ehrenberg [8]. Johnson & Johnson provided testimony that addressed this point: "* * * the time weighted average (TWA) of EtO in the atmosphere may not truly reflect what may be a more important exposure in terms of chromosome effects, i.e., transient high levels ('peak' levels)". (Ex. 137)

This conclusion by Johnson & Johnson was based on the results of their investigation which demonstrated increased frequencies of sister chromatid exchanges among workers whose TWA exposures were calculated to be "* * * up to 10 ppm and above." However, Johnson & Johnson conceded that "* * * the nature of the sterilizer operations at the plants may lead to transient peak exposure levels that quickly return to very low levels."

While none of these studies provide confirmation of the carcinogenic process, they do lend credence to a plausible mechanism of action for ethylene oxide. Such a mechanism appears to involve a delicate balance between DNA damage and repair which may be easily influenced by "peak" EtO exposures. (Ex. 181)

With regard to the argument that OSHA must quantitate the risks associated with short-term exposures to EtO, NIOSH stated that the techniques of quantitative risk assessment are not yet developed to allow such an analysis and that OSHA must, therefore, rely on expert scientific opinion pertaining to the STEL issue.

Finally, NIOSH argued that compliance with STEL is feasible, pointing out that Johnson and Johnson (Ex. 150) has stated that they have been achieving compliance with a 10 ppm, 15 minute STEL since May, 1980.

Public Comment

Ten of the 41 commentors responding to OSHA's September 19, 1984 EtO notice provided statements supporting the need for adoption of a STEL (Exs. 189–2, 189–12, 189–14, 189–19, 189–22, 189–26, 189–27, 189–30, 189–33, 189–39). These commentors contended that qualitative scientific data demonstrate that a STEL is particularly necessary to prevent the occurrence of SCE and spontaneous abortions that result from short-term EtO exposures (Exs. 189–14, 189–19, 189–22, 189–39). They also argued that increased frequency of SCE observed in EtO workers is a predictor of subsequent adverse health effects. For example, the International Chemical Workers Union stated that "Though SCE does not itself represent an adverse health effect, it is a sensitive indicator of chromosomal damage which may predict the development of cancer" (Ex. 189–22). Raymond Tice, Ph.D., Brookhaven National Laboratory, submitted a number of reports presented during the recent International Symposium on Sister Chromatid Exchanges from which he concluded:

> SCEs are a sensitive indicator of DNA damage at the cellular level and, as such, *can* be used as predictors of carcinogenic/teratogenic/mutagenic potential. At present, we are not cognizant fully of which types of DNA damage elicit an SCE response and/or the biological consequences of that damage. Furthermore, SCEs are not elicited by certain classes of genotoxic agents. However, SCEs can be used to indicate damage to DNA induced by EtO and damage to DNA is potentially harmful. Thus, it is entirely appropriate that SCEs be used as an indicator of potential harm. (Ex. 189–13)

Tice also characterized an article by Garry et al. (Ex. 189–14) entitled "Ethylene Oxide Induced Sister Chromatid Exchange in Human Lymphocytes Using a Membrane Dosimetry System" as containing data "indicating dose-rate effects for the induction of SCEs by EtO" (Ex. 189–13).

With respect to the health implications associated with chromosomal aberrations, the American Federation of State, County and Municipal Employees stated that:

> Some commenters have raised the contention that the presence of increased chromosomal aberrations in populations exposed to EtO is not pertinent, since no overt illness is directly attributable to such a finding. (Exs. 152, 153, 11–133, 175, 178, 179). Although this currently is true on an individual basis, it is not true on a population basis. Studies of chromosomal aberrations in populations exposed to ionizing radiation have shown clear dose-related increases both in chromosome aberrations and in various cancers for these populations (Testimony of Geoffery M. Karny before U.S. House of Representatives, October 6, 1982). (Ex. 189–14)

Other commenters contended that short-term limits are necessary to minimize exposures to substances such as EtO, that are considered to be potential carcinogens (Exs. 189–33, 189–39).

Richard Brandt, Industrial Hygienist for the State of Wisconsin comments that a STEL is warranted to prevent the occurrence of lung tissue shock and consequent blood absorption (Ex. 189–2).

In addition to supporting the need for a STEL, commentors addressed the issue of quantification of the risk reduced by issuance of a STEL. The National Union of Hospital and Health Care Employees provided the following discussion:

In terms of risk reduction, the Calleman article (30) makes a calculation for the risk for the development of cancer after exposure to ethylene oxide. Their calculation indicates that a PEL of .25 ppm would be equivalent to an exposure to five REMS of low LET radiation per year. Five REMS per year is ten times that permitted for pregnant workers and to the nonworking population. There is also growing evidence that five REMS does in fact pose significant risk to the exposed individual. At this exposure risk of 5 REM/year there is significant cancer risk. NIOSH (30) has determined that the risk of cancer from one x-ray is .8 excess cancers per one million. Five REMS would extrapolate to 6.5 excess cancers per million suggesting that even a TLV of .25 ppm is too high, strengthening the case that the TLV–TWA should be .1 ppm, the ceiling .5 ppm to 1 ppm and the STEL .3 to .5 ppm. (Ex.189–39).

The National Safety Council stated that the quantification of the risk in this instance can only be determined qualitatively because of limitations of the science of risk assessment, but that the qualitative scientific evidence on EtO clearly supports the need for a STEL (Ex. 189–12).

IV. The ACGIH TLV Recommendation

A number of commentors opposing adoption of a STEL cited the fact that the American Conference of Governmental Industrial Hygienists (ACGIH) has not recommended a specific STEL for EtO. Commentors supporting adoption of a STEL point out, however, that the ACGIH does recommend adherence to an "excursion limit" for EtO. The following discussion is provided to clarify the implications of the ACGIH position as it relates to the STEL determination by OSHA.

The ACGIH Chemical Substances Threshold Limit Value (TLV) Committee has a long history as a respected group involved in recommending workplace exposure standards for chemicals. This group consists of professional industrial hygienists (and toxicologists), in the employ of various governmental bodies (Federal, State, Cities, Military, Universities), who serve voluntarily on the committee.

In addition, a number of industrial hygienists and toxicologists with private industry also serve, again voluntarily, as consultants to the TLV Committee, attending the regular meetings and making contributions to the development of the TLVs and their documentation. (Only the TLV Committee members vote on Documentations and TLVs to be submitted to the ACGIH Board).

OSHA adopted the 1968 TLVs as Permissible Exposure Limits (PELs) under section 6(a) of the OSH Act in 1971. These 1968 TLVs are still the major

part of the OSHA PELs, those found in Table Z–1, § 1910.1000.

As toxicology has become a more sophisticated science, the TLVs have shifted from TLVs which were originally based primarily on acute exposures and effects, to a range of TLVs, ceiling limits and short term exposure limits based on available exposure information and toxicology data from human exposure, or animal tests.

Currently, the ACGIH TLV Committee uses three basic categories of TLVs:

(a) TLV–TWA (Time Weighted Average)

(b) TLV–STEL (Short-Term Exposure Limit)

(c) TLV–C (Ceiling)

In addition to these, the Committee recommends Excursion Values (to be addressed in greater detail later); provides a "skin" notation in the TLV list to indicate substances absorbed through the skin; establishes special provisions for exposures to mixtures of substances; and provides for special treatment of "nuisance" particulates, simple asphyxiants, and special problems with physical agents which may act to increase the adverse reaction to a substance.

Much emphasis in recent years has been on carcinogenic effects of some chemicals, and the committee has devoted a great deal of effort to addressing this concern. The committee has several general classifications it uses for carcinogenic substances, determined by the level of information available about the substance's effects in humans and experimental animals, and the mechanism of action of the substance. For some substances, no safe level has been determined from the studies.

With regard to STELs, the committee recommends them for toxic substances when the "toxicological evidence" warrants it (Ex. 184). STELs are defined by ACGIH in the TLV booklet as follows:

> (b) Threshold Limit Value-Short Term Exposure Limit (TLV–STEL)—the concentration to which workers can be exposed continuously for a short period of time without suffering from: (1) Irritation, (2) chronic or irreversible tissue damage, or (3) narcosis of sufficient degree to increase the likelihood of accidental injury, impair self rescue or materially reduce work efficiency, and provided that the daily TLV–TWA is not exceeded. It is not a separate independent exposure limit, rather it supplements the time-weighted average (TWA) limit where there are recognized acute effects from a substance whose toxic effects are primarily of a chronic nature. STELs are recommended only where toxic effects have been reported from high short-term exposures in either humans or animals.
>
> A STEL is defined as a 15 minute time-weighted average exposure which should not be exceeded at any time during a work day even if the eight-hour time-weighted average is within the TLV. Exposures at the STEL should not be longer than 15 minutes and should not be repeated more than four times per day. There should be at least 60 minutes between successive exposures at the STEL. An averaging period other than 15 minutes may be recommended when this is warranted by observed biological effects.

ACGIH also recommends the use of "Excursion Limits" in those situations where there is not enough toxicological evidence to support a STEL. Excursion Limits have their basis in long experience in industrial hygiene practice and the observation that processes with workplace exposure with high variability are not "under good control" and that efforts must be made to bring these exposures under control. These high degrees of variability may be discovered by monitoring peak exposure levels to determine exposure patterns which may be caused by various aspects of the operation in question, often point source leaks, and work practices.

ACGIH addresses these situations as follows (Ex. 184):

> Excursion Limits. For the vast majority of substances with a TLV, there is not enough toxicological data available to warrant a STEL. Nevertheless, excursions above the TWA–TLV should be controlled even where the eight-hour TWA is within recommended limits. Earlier editions of the TLV list included such limits whose values depend on the TWA–TLVs of the substance in question.
>
> While no rigorous rationale was provided for these particular values, the basic concept was intuitive: In a well controlled process exposure, excursions should be held within some reasonable limits. Unfortunately, neither toxicology nor collective industrial hygiene experience provide a solid basis for qualifying what those limits should be. The approach here is that the maximum recommended excursion should be related to the variability generally observed in actual industrial processes.

The ACGIH's recommendation where "Excursion Limits" are applied is that:

> Short-term exposures should exceed three times the TLV–TWA for no more than a total of 30 minutes during a work day and under no circumstances should they exceed five times the TLV, provided that the TLV–TWA is not exceeded.

With regard to this recommendation, ACGIH states that:

> The approach is a considerable simplification of the idea of the log normal concentration distribution but is considered more convenient to use by the practicing industrial hygienist. If exposure excursions are maintained within the recommended limits, the geometric standard deviation of the concentration measurements will be near two and the goal of the recommendation will be accomplished.
>
> When the toxicologic data for a specific substance are available to establish a STEL, this value takes precedence over the excursion limit regardless of whether it is more or less stringent.

In comments submitted to OSHA by ACGIH (Ex. 189–19) ACGIH stated its position with regard to EtO exposure as follows:

> The use of specific Short Term Exposure Limit (STEL) by the committee is generally limited to situation, where the committee is advising more restrictive control on short-term exposure than that afforded by the excursion limit for the TWA–TLV. The committee has specifically addressed this issue for ethylene oxide. Committee policy would not require a specific statement on the value of the excursion limit in the documentation for each substance for which a specific Short-Term Exposure Limit (STEL) is not recommended. However, in its meeting on March 26–27, 1984 it specifically directed that just that type of statement be added to the documentation for ethylene oxide (1984 Supplemental Documentation package is enclosed. See page 185.2 (84) second last paragraph. "Because some studies have pointed out the importance of short-term high exposures, the ACGIH considers that control by the excursion limits given in the preface of the TLV booklet will suffice to protect from the adverse effects of ethylene oxide." (Ex. 192)

In its earlier submission (Ex 184), ACGIH had suggested this view:

> Traditional industrial hygiene approaches have evaluated either short and/or long term exposures as appropriate. To intimate that short-term measurement is not a traditional industrial hygiene approach shows only a lack of familiarity with the field. I would also suggest that compliance strategy and toxicological justification are not necessarily causally linked. If a short-term limit is needed for ease of compliance monitoring, it can be justified on its own merits.
>
> (The TLV committee, however) did not have the toxicological evidence to recommend a specific STEL more restrictive than the excursion limit on the time-weighted average (TWA–TLV) recommendation. The use of the excursion limit of ACGIH is more restrictive and more protective of worker's health than the short term limit proposed by OSHA . . .

Commentors, both in opposition to adoption of the STEL (EOIC, Ex. 189–16; OMB, Ex–162) and in favor of the STEL: (AFSCME, Ex. 189–14; NIEHS, Ex–171; NIOSH, Ex. 181; AAOHN, Ex. 180) who discuss the ACGIH TLV appear to recognize either the explicit or implicit need to monitor peak exposures in order to gauge the degree to which an operation is in good control or poor control, and what the variation of exposure is around the actual TWA, in the process of controlling exposures to

the prescribed TWA. (The ACGIH concept of "excursion limits" and its relevance to OSHA's STEL determinations are discussed further in section V.3 below).

In summary, the ACGIH has not recommended a STEL for EtO because the TLV Committee has determined that there are insufficient toxicological data to warrant such an action. Specifically, the committee concluded that a STEL for EtO would be recommended "only where toxic effects have been reported from higher short-term exposures in either humans or animals.

V. OSHA's Conclusions

After a thorough review of the entire rulemaking record, including the peer review and public comments received since June 22, OSHA had determined that the available health data on EtO do not necessitate the establishment of a STEL to supplement the 8-hour TWA of 1 ppm. This determination is based on several factors whose significance has been highlighted by many of the comments received by the Agency in response to its **Federal Register** notices of June 22 and September 19. Although no new studies on the health effects of EtO have been submitted to the record during this extended comment period, there has been considerable new documentation of reasons why the existing health data do not necessitate that a STEL be established. OSHA's rationale for not promulgating a STEL is based largely upon this new information, which has provided the agency with clearer and more definitive findings than were available at the time of promulgation of the June 22 final rule. In brief, OSHA's decision not to issue a STEL for EtO centers on three basic findings: First, the available health data do not demonstrate the risks from EtO exposure to be dose rate-dependent. In other words, the studies do not indicate that the risk from exposure to a given dose of EtO are greater when that dose is distributed at high concentrations over a short period of exposure during a workday rather than at a lower concentration during a longer period of time. Second, since the effects of EtO are assumed to be *dose* dependent rather than dose-*rate* dependent, reduction of the total dose is the critical factor in dealing with the significant risks of EtO exposure. Therefore, the 1 ppm TWA is sufficient to minimize significant risk, within the bounds of feasibility. Third, in terms of industrial hygiene and methods of controlling EtO, compliance with the TWA will necessitate the control of short-term exposures, particularly for exployees whose exposure consists primarily of short-term bursts. Therefore, to the extent that good industrial hygiene practice calls for the reduction of short-term peak exposures, the low TWA of 1 ppm will result in the minimization of short term exposures within the workday. Further, where burst-type exposures occur more than once per day, and where there are background levels of EtO between bursts, the TWA will place internal limitations on the levels and durations of such bursts during the workday to assure compliance with the TWA. The following section discusses each of the above findings in detail, together with supporting references to the rulemaking record. In addition to these primary findings, this section will discuss other related reasons which provide further support for the Agency's determination.

1. *Dose-Rate Relationship.* In making its final determination on the STEL issues, OSHA has reevaluated the available health evidence in light of the peer review and public comments received since the June 22 notice was published. Although these submissions to the record included little additional health data, they did provide wide-ranging and expansive discussions of the relevance of the various studies to the setting of a limit on short-term exposures to EtO. In particular, they concentrated on the issue of whether a "dose-rate" relationship had been established between EtO exposures and the various health effects attributed to those exposures. The Agency had not previously addressed this issue in depth, and has since determined that it is particularly important in the EtO context. In brief, if the health effects of EtO are related to the total dose alone, without regard to the temporal distribution of that dose, an 8-hour TWA limit on exposures will reduce the risk of those health effects by limiting the total dose received. However, if the effects from exposure can be shown to be greater when the total dose is received in a short period of time than when it is spread over a longer period, an 8-hour TWA limit alone might not be adequate to reduce the risks. In the event of such a "dose-rate" relationship being established, a STEL might be warranted as a supplement to the TWA in order to provide protection against the additional risk attributable to concentration of the dose over short periods. After a careful evaluation of the peer review and public comments on this issue, and based on the Agency's review of the available studies on the effects of EtO exposure, OSHA has determined that none of the studies on the adverse health effects of EtO have established a dose-rate relationship between the pattern of EtO exposure and an increased risk of impairment of employee health. Accordingly, the Agency has determined that a STEL is not warranted in the final EtO standard.

As discussed above, a finding that is critical in order for OSHA to justify the adoption of an EtO STEL is that evidence demonstrates that for some biological end-point of EtO exposure, there is a "greater yield of damage (effect) from an acute treatment as compared to a chronic or fractionated treatment for the same total dose" (Ex. 186). The studies in the record that have been most commmonly cited as demonstrating that this dose-rate effect is associated with EtO exposure include those by Yager et al. (Exs. 4–10, 6–15, 22), Johnson and Johnson (Exs. 4–17, 137), Garry et al. (Ex. 189–14), Hemminki et al. (Ex. 6–7); and Hogstedt et al (Exs. 2–8, 2–22). The biological end-points observed in these studies include increased frequency of SCE and chromosome aberration in exposed workers (Yager, Johnson and Johnson) and *in vitro* (Garry), increased frequency of spontaneous abortion among EtO sterilizer workers (Hemminki), and increased incidence of leukemia among EtO workers (Hogstedt). OSHA reaffirms its conclusions with respect to these studies that were reached in its final standard for EtO published June 22, 1984 (49 FR 25734). In particular, OSHA determined at that time that ". . . findings in humans and experimental animals exposed to EtO are indicative of damage to genetic material [DNA]. These include hemoglobin alkylation, unscheduled DNA synthesis, sister chromatid exchange [and], chromosomal abnormalities . . ." OSHA further concluded that the available data demonstrate that ". . . EtO exposure may cause an increase in spontaneous abortions" and that "EtO is a potential occupational carcinogen." However, based upon its evaluation of the available health data and in light of the peer review analyses in the record, OSHA is unable at this time to determine that these outcomes are dose-rate effects, in addition to dose-effects.

Before a STEL can be justified based on health effects from short-term exposures "there would have to be an observe dose-rate effect over a certain dose range, and at the dose limitation imposed there would be an influence of [Cellular] dose rate." (Ex. 186). No such evidence has been presented in the rulemaking record. OSHA concurs in the conclusion by the AAIH (Ex. 175) that

none of the pertinent "studies demonstrate that the amount of DNA damage received as a result of short-term exposures to EtO is greater than that received . . . by the same cumulative dose of EtO during constant exposure conditions" and that ". . . *none of them was designed to test whether the fractionation of the EO dose is more important to the likelihood of a clinical outcome*" (AAIH emphasis).

In order to examine the potential for a dose-rate effect for EtO, it must be demonstrated that the effect accrues to a greater degree for a dose over a high dose period than for the same dose being received over longer low dose periods.

Thus, data are needed that compare the biological outcomes that result from the two exposure scenarios. That is, health effects observed in a test group receiving a given total dose over a continous period of time must be compared with the health effects observed in a separate test group receiving the same total dose over a shorter period. In order to examine whether a dose-rate relationship exists, the available data must allow for a comparison between the health effects of short-term exposures and the health effects of continuous exposures, involving the same total dose for the two patterns of exposure. Studies in which the exposed groups have each received mixed exposures, or in which all exposed groups were exposed to the same type of exposure pattern (either short-term or continuous), do not provide the kind of data to allow for that comparison. In the case of EtO, none of the studies which have been cited in support of the STEL are sufficient to enable the Agency to determine the existence of a dose-rate relationship. Accordingly, OSHA has determined that currently available studies do not justify the imposition of a STEL. The following section discusses each of these studies and its limitations in the context of OSHA's determination not to issue a STEL.

With respect to the Yager study, exposures occurred once per day with a mean concentration of 82 ppm over 3.5 minutes. EtO exposure for each worker was expressed as an estimated cumulative dose for the 6-month study period. The study results indicated that workers with cumulative doses of greater than 100 mg of EtO had significantly higher levels of SCE than workers with cumulative doses of less than 100 mg. Though this study does indicate that short-term EtO exposures can result in SCE in workers, the study does not demonstrate, and was not designated to demonstrate, that the amount of SCE observed is greater than that that would be seen in workers receiving the same cumulative dose from continuous exposure.

Dr. Yager has speculated, however, that this study may suggest the existence of a dose-rate effect for EtO. She observed that:

> With the breathing zone data gathered in this study, it may be possible to determine whether the observed increase in SCE's arises exclusively from the cumulative effect of daily exposure or whether some component of the increase results from the rate at which that exposure occurs. Comparison of mean numbers of SCE's induced per cell per unit of cumulative exposure with those reported in a recent animal study (6) indicates that humans may be considerably more sensitive to SCE induction than animals.
>
> This difference would be much less, however, if SCE induction were also a function of dose rate, since the workers were exposed to ETO for short periods at five times the dose rate to which the animals were exposed. (Ex. 6–15)

Dr. Yager concludes that:

> If a dose rate effect is found for humans . . . then the evdence of ETO-induced SCE's may suggest that occupational exposure to ETO and other alkylating agents be controlled in terms of both cumulative dose and dose rate. (Ex. 6–15)

The animal study cited by Yager involved exposure of groups of rabbits to 0, 10, 50 or 250 ppm EtO by inhalation for 6 hours per day, 5 days per week for 12 weeks. A statistically significant increase in mean SCE was seen in the rabbits exposed to 50 and 250 ppm of EtO, but not at 10 ppm.

With respect to the interpretation suggested by Yager from comparative analysis of these studies, the Environmental Mutagen Society argued that:

> The other points alluded to in this paper . . . are that there are dose-rate effects for SCE induction by EtO and that humans are more sensitive than rabbits with regard to elevated SCE levels following EtO exposure. Both of these contentions are unquestionably speculation not supported by hard experimental data. First, the species difference. Her protocols for blood lymphocyte culture and BrdUrd levels were different for the two species as were the exposure conditions, and thus, comparisons cannot be made only on the basis of exposure conditions to conclude either a species sensitivity difference or a dose-rate effect. The comparison of short duration exposures in humans (species with long-lived lymphocytes) with continuous exposure in rabbits (species with short-lived lymphocytes) Huff et al., *Mutation Research* 94:349, 1982) is not appropriate without at least the mentioning of either lung physiology or DNA repair differences or some other confounding factors as possibilities. (Ex. 189)

OSHA notes with interest that Dr. Yager has submitted a proposal to NIOSH that would evaluate a dose-rate effect of exposure to EtO on SCE. OSHA supports this further research and has submitted a letter to NIOSH urging funding of this research.

OSHA believes that these studies do raise important questions regarding existence of an EtO dose-rate effect in humans. However, neither OSHA nor Dr. Yager are able to conclude from these data that such an effect exists. (As noted above, Dr. Yager has proposed to conduct further research on dose-rate effects).

The Johnson and Johnson studies (Ex. 4–17, 137 A, B, C, D) were initiated to determine whether employees exposed to EtO showed more chromosome changes than employees thought to be unexposed. OSHA finds no indication in the record that either of the Johnson and Johnson studies were designed to test for dose-rate effects. The observations of SCE in the first study (Ex. 4–17, 137 A, B, C) were based on exposures in three study plants that were expressed only as 8-hour TWA's. The conclusions reached in the second study (Ex. 137D) wee based on historical exposure information which included data from 8-hour TWA samples and short-term exposure samples. As with the Yager data, the Johnson and Johnson data do not include comparative effect analyses from the two exposure scenarios. Thus, OSHA cannot point to either of the Johnson and Johnson studies as demonstrating dose-rate effect. OSHA concurs with the conclusion expressed by the Environmental Mutagen Society that these studies only "demonstrate(s) that occupational EtO exposure causes chromosome aberrations and elevates the SCE frequency in workers" (Ex. 186).

As noted in the June 22 FR notice, OSHA believes that the Hemminki et al. study demonstrates that EtO exposure may also result in spontaneous abortion. However, the study does not show, nor was it designed to show, that brief transient episodes of high exposure to EtO are of greater importance than the total EtO dose in leading to abortion. The results reported by Hemminki were based on estimated TWA exposures and recorded peak exposures. A dose-rate effect cannot be inferred from this report because the study group was subject to both transient and continous EtO exposures, and a comparison of abortion rates from each exposure scenairo was not made. As the committee for the Environmental Mutagen Society concluded, the Hemminki study "has no bearing whatsoever on the question of dose-rate effect" (Ex. 186)

The problem inherent with the use of any of the studies discussed above as demonstrating a dose-rate effect is that the results were seen from exposures to EtO as they actually occur in the workplace. That is, the total dose received by the workers in these studies was from either a combination of short-term and continous EtO exposures (Johnson and Johnson, Hemminki) or short-term exposure only (Yager). As such, they do not provide sufficient data to allow a meaningful comparison of the health effects of short-term excursions of EtO as opposed to the same total dose distributed over longer periods. OSHA believes that it is necessary to have data that compare the biological outcomes that result from the two exposure scenarios before a conclusion can be reached that a dose-rate effect exists. OSHA determined that such data are not presently available with respect to EtO. Assuming NIOSH funds Dr. Yager's further work and possibly other studies in this area, more definitive data may become available in the next year or two. If the data so indicate, OSHA will consider reevaluating the decision it announces today.

Finally, a dose-rate effect is not indicated with respect to the available studies demonstrating the potential carcinogenicity of EtO (Hogstedt et. al., Exs. 2–8, 2–22, and Bushy Run, Ex. 2–9). The Hogstedt studies suffer the same lack of study design to test for dose-rate effect; that is, results of the study were from study populations that were exposed to both continuous and peak EtO exposures over the study period. The Bushy Run study, used by OSHA is quantifying the excess risk of leukemia from exposure to EtO, exposed groups of rats at various EtO concentrations for 6 hours per day, 5 days per week. No comparative short-term exposure study on rats was perfomed. In addition, OSHA has quantified the relationship between dose and carcinogenic response to EtO in tems of a cumulative dose mathematical model, based upon available data and on assumptions set forth both in the risk assessment itself and in the June 22 final rule. Data do not presently exist for OSHA to explore this relationship based on EtO dose pattern.

Thus, OSHA has concluded that presently available data do not demonstrate an association of EtO exposure with a dose-rate effect. Accordingly, OSHA has determined, that adoption of a STEL for EtO is inappropriate.

It should be noted that an *in vitro* study by Garry et al. (Ex. 189–14) did reveal a dose-rate effect of EtO-induced SCE frequencies in EtO-treated human lymphocyte cultures. The ambient exposure doses were 100 ppm, 131 ppm, 218 ppm and 306 ppm for 20 minutes each. The authors conclude that the "data show an incremental change in SCE frequency with applied ambient EO . . .". The authors further state, however, that "Although we indicated that in vitro sensitivity of the SCE technique in human lymphocytes, the data cannot be directly linked to the vivo response" due to factors such as respiratory rate, and EtO protein binding and inactivation.

Both of the Mutagen Society's peer reviewers, Generoso and Dufrain, suggest that further research be performed in order to resolve this issue.

Similarly, the 3M Company (Ex. 189–32) states that it "recognizes that the Hemminki, Johnson and Johnson, . . . Yager . . . research raise important questions about the impact of peak exposures" but that the "significance of short-term peak concentrations is, at best, unclear at this time."

In addressing the possible reason why a dose-rate effect has not been observed for EtO, the Environmental Mutagen Society (Ex. 186) offered the following:

> . . . for high energy radiation (X or gamma rays) one is unable to determine a difference in biological damage when 1000 millirem is received in one minute or 1 millirem is received per minute over 1,000 minutes or longer, because the total dose is so low, there is no dose rate effect. This may well be a possible outcome resulting from the introduction of a 1 ppm 8-hour limit exposure [for EtO].

OSHA agrees that further research may be warranted on the implications of the EtO data dealing with dose-rate effects. Therefore, OSHA has specifically requested that NIOSH fund research proposals to evaluate end-points such as SCE or alkylation in sperm DNA in relation to the existence of a dose-rate effect from exposure to EtO. OSHA will review these studies when the results become available, and will evaluate whether the question of a short-term limit for EtO should be reexamined.

2. *Dose Effects.* OSHA believes that the dose effects that result from exposure to EtO will be significantly reduced by controlling exposures to the 1 ppm TWA and that available data do not demonstrate that this reduction will be jeopardized by the decision to not include a STEL. OSHA continues to believe, as concluded in the final EtO standard, that the risk of damage to genetic material, incidence of cancer, reproductive effects, neurotoxicity and sensitization "will be substantially reduced by promulgation of the 1 ppm TWA". The contol of chronic exposures to EtO is felt to be of primary importance in reducing the risk from the potential effects cited above. As the Agency noted in its June 22 final rule, the Yager and Johnson and Johnson studies indicated that chromosomal aberrations and SCE are induced in workers exposed to EtO levels between 1 and 10 ppm as an 8-hour TWA. Therefore, reduction of the TWA is expected to reduce that total dose and, therefore, should also reduce the incidence of cytogenic effects.

With respect to cancer induction, OSHA has demonstrated a significant reduction in risk from that under the previous TWA of 50 ppm by adoption of the 1 ppm TWA alone. For the cancer causing effects of EtO exposure, there is no indication that short-term high exposures to EtO are more hazardous than an equivalent dose spread over 8 hours.

The fetotoxic and spermatogenic effects which result from EtO exposure were described in the final standard as perhaps being "induced by changes in the DNA and which are known to be produced by many alkylating agents as EtO." There is no scientific consensus that either mutagenesis or other effects on DNA are dose-rate effects. With respect to neurotoxicity and sensitization, OSHA also concluded that" the record as a whole clearly suggests that lowering the TWA [from 50 ppm to 1 ppm] will significantly reduce the risk that employees exposed to EtO will experience from these effects."

Thus, OSHA believes that the 1 ppm TWA, by itself, will provide significant worker protection from the dose-effects associated with exposure to EtO.

This view is supported by a number of commentors (Exs. 189–24, 189–32, 189–35). For example, the R.T. French Company stated that "we believe that the 1 ppm permissible exposure limit as an eight hour TWA is . . . sufficient to protect workers' environment given today's knowledge" (Ex. 189–24). 3M Company (Ex. 189–32) commented that they "agreed with the need for a 1 ppm PEL" . . . and that ". . . 29 CFR 1910.1047 as it stands is a prudent attempt to reduce exposures to extremely low levels, on the basis of chronic animal and epidemiological information gathered to date." Finally, the American Hospital Association characterized the adequacy of OSHA's present EtO standard as follows:

> . . . OSHA published a new standard that reduces permissible exposure to EtO by a factor of 50. Standard requirements cover methods of exposure control, personal protective equipment, measurement of

employee exposures, training, medical surveillance, signs and labels, regulated areas, emergency procedures, and recordkeeping. When fully implemented, this standard should prove highly protective of employee safety and health. Several years in development, this standard calls for most, if not all, of the engineering and work practice controls necessary for reducing exposures to an acceptable level. (Ex. 189–35).

3. *Compliance With the TWA Will Reduce The Magnitude of Short-Term Exposures.* OSHA believes that the compliance program designed to maintain exposure to or below the 1 ppm TWA limit (required by paragraph (f)(1) of the standard) will also substantially reduce the magnitude of the short-term exposures. Although the 8–hour TWA limit allows excursions above the limit (provided that they are compensated by excursions below the limit during the workday), in practice, the workplace controls to reduce TWA exposure will be designed to capture EtO emissions at their source, which is directly related to the magnitude of the short-term exposures. As stated by Ernest M. Dixon, M.D. in a submission by the American Occupational Medical Association: "In meeting the 1 ppm PEL employers will readily deal with the short term exposures; the steps necessary to assure compliance with the 1 ppm PEL would make significant excursions very unlikely—except in accidental or special circumstances where use of respirator protection must be permitted (Ex. 187)". This position is supported by a number of commenters (Exs. 189–16, 189–32, 189–29, 189–24, 189–34, 189–40, 195).

Paragraph (f)(1)(i) of the final standard requires that "the employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the TWA, except to the extent that such controls are not feasible." OSHA described the types of controls that would have to be implemented as a result of this requirement in the "Feasibility of the 1 ppm TWA" section of the preamble to the EtO standard, at 49 FR 25768. OSHA concluded that the EtO producer and ethoxylator industry sectors would use conventional technology to meet the 1 ppm TWA. Controls include use of rupture disks for minimizing low-level leakage from pressure relief devices; closed sampling devices at process sampling locations, and vapor-tight unloading connections, magnetic level gauges, and nitrogen purge systems on tank car loading facilities. These controls reduce short-term exposure as well as the TWA exposure. For operators of large industrial sterilizers, engineering and work practices include changer evacuation systems, liquid/gas separation units to prevent excessive EtO emissions during chamber evacuation, local exhaust hoods installed over the sterilizer door, local ventilation of aeration chambers, and allowing the sterilizer contents to aerate for a short period of time after opening the sterilizer door. Hospital sterilizers are smaller than sterilizers used by medical product manufacturers, but the control of EtO involves the same principles and types of control equipment and methodology used for industrial sterilizers.

OSHA found that the smaller size of hospital sterilizers makes controlling EtO exposures in hospitals generally easier than in industries using large sterilizers. As in the chemical industry sectors, these controls will reduce short-term exposure along with the TWA exposure. For example, opening the sterilizer door by an employee can cause a high short-term exposure that contributes to the TWA exposure; both exposures are reduced if the sterilization chamber is evacuated before the door is opened.

Several commentors expressed concern that EtO exposure could be very high for short periods of time (such as 500 ppm for 1 minute) if a STEL were not adopted (Exs. 171, 180, 181, 189–19, 189–22). Even though a 1 ppm TWA theoretically and mathematically allows a 15 minute STEL of 32 ppm (if the background concentration is zero for the remaining portion of the day), an actual high exposure duration of 3 to 5 minutes is the norm for sterilizer operations. This would permit hypothetical exposures up to 160 ppm and would still meet the 1 ppm TWA assuming no further EtO exposure for the remainder of the 8-hour shift. OSHA believes, however, that in actuality, compliance with the 8-hour TWA will not allow high excursions of this degree. The reason is that there are low level EtO background concentrations in the workplaces where EtO is being used, and these background concentrations must be taken into account in calculating an employeee's daily dose of EtO. Such background levels can often result from offgassing of sterilized products, for example. The existence of such background EtO levels, together with the need to control the daily dose to a TWA of 1 ppm, makes it unlikely for an individual excursion to reach the mathematical possibility of 32 ppm for 15 minutes without resulting in an 8-hour TWA above 1 ppm. Further, the closer the background concentration gets to 1 ppm, the lower the permissible excursions will be in order for total exposure to be within the TWA. Several parties (Exs. 189–16, 189–34, 197) noted that an assumption of no background exposure from EtO for the remainder of the shift is "an impractical assumption given the reality of . . . environmenal exposures" (Ex. 189–34) and that these additional exposures will necessarily require the employer to further limit short-term exposures.

In addition, where more than one short-term exposure contributes to the 8 hour TWA exposure, an increase in the number of short-term exposures decreases the allowable magnitude of each excursion. Further, even the theoretical 32 ppm 15 minute limit that is "built into" a 1 ppm TWA is only possible under a unique set of circumstances, where that 15 minutes period represents an employee's only source of EtO exposure in an entire 8-hour workday. For example, for an employee who is exposed to three 15 minute sterilizer openings per day the magnitude of these exposures must be limited far below the 32 ppm figure (closer to 10 ppm) to keep the day's TWA below 1 ppm. When background EtO levels are considered, these excursions must be limited even more. In this way, the TWA itself does act as a check on the number and extent of short term exposures during the day.

It should also be pointed out that to achieve the TWA, the reduction of short-term exposures represents the most effective menthod of reducing the total dose of EtO for most employees, particularly those exposed to EtO releases from sterilizers. This reflects the technical and practical realities of controlling exposures at their source to minimize the total dose during the workday.

OSHA has determined that short-term exposures to EtO have not been demonstrated to be more harmful than the same total dose of EtO received over a longer period of time during the workday. Therefore, the need to control short-term exposures is only important insofar as it relates to the resultant reduction of total dose. Further, the control of short-term excursions are a necessary part of the overall compliance program for the 1 ppm TWA.

Therefore, OSHA believes that employers attempting to reduce overall exposures to the 1 ppm TWA will by necessity have to apply good industrial hygiene practice of controlling short-term levels, and that background levels and the number of short-term excursions will be factors to be considered in achieving compliance with the TWA.

OSHA also notes that the concept of "excursion limits" developed by ACGIH

is based upon the in-plant variability of contaminant concentrations. It appears to be applied as a rule-of-thumb for industrial hygienists when assessing worker exposures and control technologies. The excursion limit concept was intended by ACGIH to apply to all workplaces, regardless of the nature of the industry (that is, outdoor vs. indoor, or hospital vs. chemical formulating plant), and to cover virtually all substances in the TLV list regardless of their toxicity or properties (including the nature of the toxic effects, whether they be irritation, central nervous system depression, and carcinogenicity; rate of absorption by the human body, and the degree of protection provided by the ACGIH TLV). OSHA agrees with ACGIH that in evaluating the available means of controlling employee exposures to any toxic substance, good industrial hygiene practice calls for assessing the extent of short-term excursions within the workday. However, ACGIH's reasoning for the excursion limits, which is not tied to findings of specific health effects for EtO, does not warrant the imposition of a STEL for EtO by OSHA. The toxic properties of EtO do not support the need for a mandatory short-term standard, and the current 1 ppm 8-hour TWA, as discussed, will result in adequate control of EtO excursions.

In conclusion, while OSHA has determined that a STEL for EtO is not necessary or appropriate for inclusion in the final standard at this time, the Agency strongly reaffirms its determinations contained in the June 22, 1984 final rule, as to the need for and feasibility of the 1 ppm TWA and other provisions of the EtO standard. The record clearly indicates that a reduction of the TWA from 50 ppm to 1 ppm will substantially reduce the significant risks of EtO exposure, within the bounds of feasibility. In addition, the other protective provisions of the standard, such as exposure monitoring and employee training, will reduce the health risks of EtO exposure below those projected by the Agency's risk assessment for the 1 ppm TWA alone. OSHA believes that by reducing the total EtO dose through establishment of a 1 ppm TWA, and by including other ameliorative provisions in the standard, a substantial reduction of the adverse health effects of EtO will be achieved.

VI. Authority

This document was prepared under the direction of Robert A. Rowland, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave., NW., Washington, D.C. 20210.

This action is taken pursuant to sections 4(b), 6(b), and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599, 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 20 CFR Part 1911.

List of Subjects in 29 CFR Part 1910

Ethylene Oxide, Occupational safety and health, Chemicals, Cancer, Health, Risk assessment.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 84–33949 Filed 12–31–84; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 166

Defense Contracting; Reporting Procedures on Defense Related Employment

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This rule is the fiscal year 1984 update of the section listing DoD contractors receiving negotiated contract awards of $10 million or more. The regulation is published to comply with the provisions of Section 1, Pub. L. 97–295, October 12, 1982; 10 U.S.C. 2397.

EFFECTIVE DATE: September 30, 1984.

ADDRESS: Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA. 22202–4302.

FOR FURTHER INFORMATION CONTACT: Mr. J.R. Sungenis, telephone (202) 746–0334.

SUPPLEMENTARY INFORMATION: In FR Doc. 70–15846 appearing in the Federal Register on November 25, 1970 (35 FR 18040), the Office of the Secretary of Defense published a final rule establishing criteria, prescribing procedures, and assigning responsibilities for monitoring contracting within the Department of Defense. Subsequently, paragraphs (a) and (d) of § 166.11, which constitute the lest of DoD contractors receiving negotiated contract awards for $10 million or more, were updated for fiscal years 1971 (36 FR 18464); 1972 (37 FR 18727); 1973 (38 FR 25990); 1974 (39 FR 32985); 1975 (40 FR 44135); 1976 (41 FR 20466); 1977 (43 FR 1617); 1978 (44 FR 3049); 1979 (44 FR 75631); 1980 (45 FR 83486); 1981 (46 FR 60821); 1982 (47 FR 56847); and 1983 (48 FR 55728).

List of Subjects in 32 CFR Part 166

Armed forces, Government employees, Government procurement, Information requirements.

PART 166—[AMENDED]

Accordingly, for FY 1984, § 166.11 of this part is revised to read as follows:

§ 166.11 Department of Defense contractors receiving negotiated contract awards of $10 million or more.

Fiscal Year 1984:

A & S Tribal Industries
A A I Corp.
A A R Corp.
A B A Industries, Inc.
A L M, Inc.
A L S Electronics
A M General Corp.
A T O, Inc.
Abex Corp.
Abercrombie, R.C.
Action Mfg. Co.
Actus Corp.
Advanced Technology, Inc.
Aero Corp.
Aerojet General Corp.
Aerojet Strategic Propulsion Co.
Aerojet Tech Systems Co.
Aeronca, Inc.
Aeroquip Corp.
Aerospace Corp.
Airspace Technology Corp.
Alfab, Inc.
All Bann Enterprises, Inc.
Alliance Properties, Inc.
Allied Corp.
Alpha Industries, Inc.
Altama Delta Corp.
American Airlines, Inc.
American Cyanamid Co., Inc.
American Development Corp.
American Electronic Laboratories, Inc.
American Express Co.
American Management Systems, Inc.
American Petrofina Co. of Texas
American President Lines, Ltd.
American Systems Corp.
American Telephone & Telegraph Co.
American Teleservices
Amertex Enterprises, Inc.
Ametek, Inc.
Amex Systems, Inc.
Amoco Production Co., Inc. (Del.)
Ampex Corp.
Amron Corp.
Analysis & Technology, Inc.
Analytic Sciences Corp.
Analytic Services, Inc.
Analytical Systems Engnr. Corp.
Analytics, Inc.
Anderson, M.C.
Andrews & Parrish Co.
Arcwel Corp.
Arete Associates
Argo Systems, Inc.

Arinc Research Corp.
Arkla, Inc.
Arrow Airways, Inc.
Ashland Oil & Transportation Co.
Ashland Oil, Inc.
Astronautics Corp. of America
Atacs Corp.
Atkins C. E. Enterprises, Inc.
Atlantic Marine, Inc.
Atlantic Research Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Aul Instruments, Inc.
Austin Co.
Automated Sciences Group, Inc.
Automation Industries, Inc.
Avco Corp.
Avco Everett Research Laboratory
Aviation Contractor Employees, Inc.
Avondale Shipyards, Inc.
Ayer N W ABH International, Inc.
B D M Corp.
Ball Corp.
Baltimore Gas & Electric Co.
Barnes & Reinecke, Inc. (Del.)
Bates Ted Worldwide, Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Beacon Oil Co.
Bechtel National, Inc.
Beech Acceptance Corp.
Beech Aerospace Services, Inc.
Beech Aircraft Corp.
Bell & Howell Co.
Bell Telephone Lab, Inc.
Bell Helicopter—Boeing, JV
Belleville Shoe Mfg. Co.
Bendix Corp.
Bendix Field Engineering Corp.
Betac Corp.
Blue Cross Washington & Alaska, Inc.
Boeing Co.
Boeing Services International, Inc.
Boeing Vertol Co.
Boland, David, Inc.
Boldt, Wallace L. General Contractor
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Borg Warner Corp.
Brunswick Corp.
Bulova Systems & Instruments Corp.
Burns & Roe, Inc.
Burnside Ott Aviation Training Center
Burroughs Corp.
C Construction Co., Inc.
C D I Corp.
C F E Air Cargo, Inc.
C P I Oil Refining, Inc.
C Three, Inc.
CACI, Inc. Federal
Caddell Construction Co., Inc.
California Microwave, Inc.
California Pacific Associates
California, University of
Calspan Corp.
Caltex Oil Products Co.
Camel Mfg. Co.
Carey Petroleum, Ltd.
Carolina Power & Light Co.
Case J I Co.
Caterpillar Tractor Co.
Central Gulf Lines, Inc.
Centre Mfg. Co., Inc.
Cerberonics, Inc.
Chamberlain Mfg. Corp.
Charles Stark Draper Laboratories, Inc.
Chesapeake & Potomac Telephone Co.
Chevron U S A, Inc.
Chromalloy American Corp.
Chrysler Corp.
Cibro Sales Corp.
Cincinnati Electronics Corp.
Cleveland Pneumatic Co.
Coastal Dry Dock & Repair Corp.
Coastal States Marketing, Inc.
Coloney, Wayne E. Co., Inc.
Colt Industries, Inc.
Colt Industries Operating Corp.
Comarco, Inc.
Communications Satellite Corp.
Comptek Research, Inc.
Computer Sciences Corp.
Computervision Corp.
Comsat General Corp.
Condec Corp.
Connor Harben Construction Co., Inc.
Conoco, Inc.
Container Research Corp.
Control Data Corp.
Cook, J.W. & Sons, Inc.
Cooper Tire & Rubber Co.
Corsair, Inc.
Cox Construction, Inc.
Crane Co.
Cray Research, Inc.
Crowley Maritime Corp.
Crown Central Petroleum Corp.
Cruz, John B. Construction Co.
Cubic Corp.
Cummins Engine Co., Inc.
D & D Financial Enterprises
Dahlstrom & Ferrell Construction
Dart & Kraft, Inc.
Data Design Laboratories
Dataproducts New England, Inc.
Day & Zimmerman, Inc.
Day & Zimmerman, Inc. & Basil FE JV
Dayron Corp.
Dayton, University of
De Narde Construction Co.
Defense Research, Inc.
Del Mfg. Co.
Devils Lake Sioux Mfg. Corp.
Diagnostic Retrieval Systems, Inc.
Digital Equipment Corp.
Donaldson Co., Inc.
Dun & Bradstreet, Inc.
Dynalectron Corp.
Dynamac Corp.
Dynamics Research Corp.
E G & G Washington Analytical Services Center
E M S Development Corp.
E R K Mfg., Inc.
E S L, Inc.
E Systems, Inc.
Eastern Tank of Peabody, Inc.
Eastman Kodak Co.
Eaton Corp.
Ebony Oil Corp.
Edison International, Inc.
Edo Corp.
El Paso, City of
El Paso Electric Co.
Electronic Data Systems Corp.
Electrospace Systems, Inc.
Emco, Inc.
Emerson Electric Co.
Engineered Air Systems, Inc.
Engineering Research, Inc.
Entwistle Co.
Enviro Control, Inc
Environmental Elements Corp.
Eon Corp.
Epic One Corp.
Essex Corp.
Essex Cryogenics of Missouri
Evaluation Research Corp.
Evergreen Intl. Airlines
Exxon Co. U.S.A.
Exxon Corp.
Eyring Research Institute Inc.
F D L Food, Inc.
F M C Corp.
F N Mfg., Inc.
Fairchild Industries, Inc.
Fairchild Weston Systems, Inc.
Falcon System, Inc.
Fansteel, Inc.
Farrel Lines, Inc.
Federal Cartridge Corp.
Federal Data Corp.
Federal Electric Corp.
Federal Mogul Corp.
Felec Services, Inc.
Flight Systems, Inc.
Florida Power & Light Co.
Flow General, Inc.
Flying Tiger Line, Inc.
Ford Aerospace & Communications
Ford Motor Co.
Fraser, Kenneth Co., Inc.
Fuller Oil Co.
G T E Products Corp.
Garcia Ordnance Corp.
Garrett Corp.
Gary Refining Co.
Gatoil USA, Inc.
General Defense Corp.
General Dynamics Corp.
General Electric Co
General Foods Corp.
General Motors Corp.
General Research Corp.
General Ship Corp.
General Signal Corp.
General Supply Corp.
Genrad, Inc.
Gentex Corp.
George Engine Co., Inc.
Georgia Technical Research Institute
Getty Oil Co.
Giant Industries, Inc.
Gibbs & Cox, Inc.
Gibraltar Industries, Inc.

Gladieux Refinery, Inc.
Global Associates
Golden Eagle Refining Co., Inc.
Goodrich B F Co.
Goodyear Aerospace Corp.
Gould, Inc.
Grey Advertising, Inc.
Grimes Oil Co., Inc.
Grumman Aerospace Corp.
Guam Oil & Refining Co., Inc.
Gulf Oil Corp.
Gulf Tex Resources, Inc.
Gulfstream Aerospace Corp.
H L J Construction & Management
H R B Singer, Inc.
H R Textron, Inc.
Halifax Engineering, Inc.
Hamilton Technology, Inc.
Hannah Marine Corp.
Harley Davidson York, Inc.
Harris Corp.
Harsco Corp.
Hawaiian Dredging & Construction
Hawaiian Electric Co., Ltd.
Hawaiian Independent Refinery, Inc.
Hawaiian Telephone Co.
Hayes International Corp.
Hazeltine Corp.
Heckethorn Mfg. Co.
Held & Francke
Henrys Hickory House, Inc.
Hercules, Inc.
Hess Oil Virgin Island Corp.
Hewlett Packard Co.
Hitco
Hoboken Shipyards, Inc.
Hollingsworth, John R. Co.
Holmes & Narver, Inc.
Holmes Bros., Enterprises
Holston Defense Corp.
Honeywell, Inc.
Honeywell Information Systems, Inc.
Howell Corp.
Howmet Turbine Components Corp.
Hudson Institute Inc.
Hughes Aircraft Co.
Hughes Communication Services
Hughes Helicopters, Inc.
Hunt Building Corp.
Hussey W. H. Pipe Co., Inc.
Hycor, Inc.
Hyster Co.
I C I Americas, Inc.
I T T Avionics & Westinghouse JV
I T T Corp.
Illinois Institute of Technology Research Institute
Illinois, University of
Inco, Inc.
Industrial Acoustics Co.
Infodetics Corp.
Information Spectrum, Inc.
Ingersoll Rand Co.
Institute for Defense Analysis
Intercontinental Mfg. Co.
Intermetrics, Inc.
International Business Machines Co.
Interstate Electronics Corp.
Itek Corp.
J T Construction Co., Inc.
Jacksonville Shipyards, Inc.
Jaycor
Jersey Central Power & Light Co.
Johns Hopkins University
Jonathan Corp.
Jones, J. A. Construction Co.
Jowett, Inc.
K & E Industries, Inc.
K P Services Co./Dragon Services, JV
Kaiser Aerospace & Electronics Co.
Kaiser, Raymond Engineers
Kaman Aerospace Corp.
Kaman Sciences Corp.
Kamatics Corp.
Kansas Power & Light Co., Inc.
Kelsey Hayes Co.
Kenco Refining Inc.
Kentron International, Inc.
Kidde, Inc.
Kisco Co., Inc.
Koch Fuels, Inc.
Kollmorgen Corp.
L S I Avionic Systems Corp
Laforge Construction Co.
Lally Mfg. Cor.
Lanson Industries, Inc.
Lear Siegler, Inc.
Levernier Shea Construction
Lewis Management Services Co.
Libby Welding Co.
Lilly David B., Co., Inc.
Lite Industries, Inc.
Little Arthur D., Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Lockheed Corp.
Lockheed Electronics Co., Inc.
Lockheed Missiles & Space Co., Inc.
Lockheed Shipbuilding & Construction
Loggins Meat Co.
Logicon, Inc.
Loral Corp.
Lord Corp.
Louisville Gas & Electric Co., Inc.
Lundy Electronics & Systems
Lykes Bros. Steamship Co., Inc.
M/A Com, Inc.
M/A Com Linkabit Corp.
M B Associates
Malcon, Inc.
Magline, Inc.
Magnadex, Inc.
Magnavox Government & Industrial Electronics Co.
Management & Technical Services Co.
Mantech International Corp.
Mapco Petroleum Inc.
Maremont Corp.
Marine Power & Equipment Co.
Marine Terminals Corp.
Marinette Marine Corp.
Marquardt Co.
Martin Marietta Aluminum, Inc.
Martin Marietta Corp.
Marvin Engineering Co., Inc.
Mason & Hanger Silas Mason Co.
Mason Chamberlain, Inc.
Massachusetts Institute of Technology
Maxwell Laboratories, Inc.
McDonnell Douglas Corp.
McGraw Edison Co.
McLaughlin Research Corp.
McMullan Robert & Son, Inc.
McMullen John J Associates, Inc.
McRae Industries, Inc.
Menasco, Inc.
Merck & Co., Inc.
Mercury Refueling Inc.
Metric Systems Corp.
Microdyne Corp.
Miller Trailers, Inc.
Miltope Corp.
Midland Ross Corp.
Mine Safety Appliances Co.
Minowitz Mfg. Co., Inc.
Mission Research Corp.
Mitre Corp.
Mobil Oil Corp.
Moog, Inc.
Moore McCormack Bulk Transport, Inc.
Morton Thiokol, Inc.
Motorola, Inc.
Nabisco, Inc.
National Academy of Sciences
National Steel & Shipbuilding Co.
Navajo Refining Co.
Neal 7 Co., Inc.
Needham, Inc.
Nero & Associates, Inc.
New Mexico State University
New Mexico Public Service Co.
New Mexico, University of
New York Telephone Co.
Newhall Refining Co., Inc.
Newport News Shipbuilding & Dry Dock Co.
Nichols Research Corp., Inc.
NI Industries
Nordam
Norden Systems, Inc.
Norfolk Shipbuilding & Dry Dock Corp.
North Atlantic Industries, Inc.
Northeast Construction Co.
Northern Telecom, Inc.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Northwest Marine Iron Works
Nova Group, Inc.
Nuclear Metals, Inc.
Nuclear Research Corp.
O A O Corp.
O R I, Inc.
Ocean Technology, Inc.
Ogden Bulk Transport, Inc.
Olin Corp.
Omega Group, Inc.
Oshkosh Truck Corp.
Outdoor Venture Corp.
Over Lowe Co., Inc.
Overseas National Airways, Inc. (Del.)
P P G Industries, Inc.

P R C Guralnick, Inc.
P S I Mobile Products, Inc.
Pacific Oasis Refinery
Pacific Refining Co.
Pacific Resources, Inc.
Pacific Telephone & Telegraph Co.
Pan American World Airways, Inc.
Pan American World Services, Inc.
Par Technology Corp.
Parker Hannifin Corp.
Parsons, Ralph M. Co., Inc.
Peabody Barnes, Inc.
Penn Metal Fabricators, Inc.
Pennsylvania Shipbuilding
Pennsylvania State University
Perkin Elmer Corp.
Peterson Builders, Inc.
Petrogulf U S A, Inc.
Phibro Salomon, Inc.
Philip Morris, Inc.
Phillips Petroleum Co.
Physics International Co.
Picker International, Inc.
Planning Research Corp.
Pneumo Corp.
Poloron Products, Inc.
Polote Corp., The
Potomac Electric Power Co.
Power Conversion, Inc.
Pride Refining, Inc.
Proctor & Gamble Co.
Propper International, Inc.
Prudential Lines, Inc.
Puerto Rico Sun Oil Company
Q E D Systems, Inc.
Questech, Inc.
R & D Associates
R C A Corp.
R E D M Corp.
Rand Corp.
Raytheon Co.
Raytheon Service Co.
Recon Optical, Inc.
Reflectone, Inc.
Rehab Group, Inc.
Reinhold Construction
Remington Arms Co.
Resource Consultants, Inc.
Revere Copper & Brass Co.
Reynolds Metals Co.
Reynolds, R. J. Industries, Inc.
Reynolds R J Tobacco Co.
Right Away Foods Corp.
Rockwell International Corp.
Rohr Industries, Inc.
Rolm Corp.
Rosenblatt M & Son, Inc.
Roth, Radcliffe Co., Inc.
S Cubed
S C I Systems, Inc.
S L Construction Co. dba Pacific Construction
S R I International
San Diego Community College
San Diego Iron & Steel Fabricating
Sanders Associates, Inc.
Sanders Associates, ITT JV
Santa Barbara Research Center
Sargent Fletcher Co.
Sargent Industries of Del., Inc.
Scallop Petroleum Co.
Science Applications, Inc.
Science Applications Intnl., Inc.
Scientific Atlanta, Inc.
Scientific Support Service
Sea Land Service, Inc.
Sealift, Inc.
Selby John R., Inc.
Selma Apparel Corp.
Semcor Corp.
Serv Air, Inc.
Service Engineering Co.
Shell Oil Co.
Sierra Blanca, Inc.
Sierra Research Corp.
Signal Cos., Inc.
Simmonds Precision Products
Simplex Wire & Cable Co.
Sinclair Marketing, Inc.
Singer Co.
Sippican Ocean Systems, Inc.
So Sew Styles, Inc.
Softech, Inc.
Sohio Supply Co.
Solar Turbines, Inc.
Sonicraft, Inc.
Southeast Machine Co.
Southern California, University of
Southern Packaging & Storage Co.
Southern Union Refining Co.
Southwest Marine, Inc.
Southwest Research Institute
Southwest Truck Body Co.
Southwestern Bell Telephone Co.
Sparton Corp.
Spears Associates, Inc.
Sperry Corp.
Standard Container Co.
Stanford University
Stearns Roger, Inc.
Steuart Petroleum Co.
Stewart Warner Corp.
Sun Chemical Corp.
Sun Refining & Marketing Co.
Sundstrand Corp.
Supreme Beef Processors, Inc.
Sverdrup Technology, Inc.
Swedlow, Inc.
Swygert Shipyards, Inc.
Syscon Corp.
System Development Corp.
System House, Inc.
Systems & Applied Sciences Corp.
Systems Management American, Inc.
Systems Research Laboratories, Inc.
T R W Electronic Products, Inc.
T R W, Inc.
T W Oil (Houston), Inc.
Talley Industries, Inc.
Technology Service Corp.
Tektronix, Inc.
Teledyne, Inc.
Teledyne Industries, Inc.
Teleport Oil Co., Inc.
Telos Computing, Inc.
Tempo, Inc.
Tennessee Apparel Corp.
Tennier Industries, Inc.
Texaco, Inc.
Texas Capital Contractors, Inc.
Texas Instruments, Inc.
Texas Painter Craft, Inc.
Texas Power & Light Co.
Texas, University of
Texstar Plastics Co., Inc.
Textron, Inc.
Thompson, J. Walter Co.
Todd Pacific Shipyards Corp.
Todd Shipyards Corp.
Tonkawa Refining Co.
Tracor, Inc.
Tracor Marine, Inc.
Tradax Petroleum America, Inc.
Transamerica Airlines, Inc.
Transamerica Delaval, Inc.
Treadwell Corp.
Tri Ex Tower Corp.
Tri Valley Growers
Triad Microsystems, Inc.
Triple A Machine Shops, Inc.
Turnkey Design & Construction Co.
Turtle Mountain Mfg. Co.
Tuskegee Lumber Co., Inc.
U R S Berger
Ultrasystems, Inc.
Unidynamics St. Louis, Inc.
Unified Industries, Inc.
Union Carbide Corp.
Union Corp.
Union Oil Co. of California
Uniroyal, Inc.
United Chem Con Corp.
United States Lines, Inc.
United Telecontrol Elect, Inc.
United Technologies Corp.
Universal Canvas, Inc.
Univox California, Inc.
Usibelli Coal Mine Co.
V S E Corp.
Valero Transmission Co.
Valley Construction Co., Inc.
Valleydale Packers, Inc.
Valmac Industries, Inc.
Vanguard Oil & Service Co., Inc.
Varian Associates
Varo, Inc.
Veda, Inc.
Venture Trading Co., Inc.
Virginia Electric & Power Co.
Vought Corp.
Walker Moody Construction Co.
Walters E & Co., Inc.
Wang Laboratories, Inc.
Wardoco, Inc.
Washington, University of
Watkins Johnson Co.
Welbilt Electronic Die Corp.
Wells Marine, Inc.
Western Electric Co., Inc.
Western Gear Corp.
Western Union International, Inc.
Western Union Telegraph Co.
Westinghouse Electric Corp.
White Engines, Inc.
Whittaker Corp.
Willard Co., The

Williams International Corp.
Winfield Mfg. Co., Inc.
Woods Hole Oceanographic Institute
World Airways, Inc.
Wylie C. E. Construction Co.
Wyoming Refining Co.
Xerox Corp.
Xerox Electro Optical Systems, Inc.
Yamas Construction Co., Inc.
Zantop International Airlines, Inc.
Zenith Radio Corp.

[10 U.S.C. 2397; Section 1, Pub. L. 97-295.]

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
December 27, 1984.
[FR Doc. 84-33964 Filed 12-31-84 8:45 am]
BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4F3066/R728; PH-FRL 2743-8]

Pesticide Programs; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Carboxin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The rule establishes a tolerance for the combined residues of the fungicide carboxin and its metabolite in or on the raw agricultural commodity safflower seed. This regulation to establish a maximum permissible level for the combined residues of carboxin in or on the commodity was requested, pursuant to a petititon, by Uniroyal Chemical.

EFFECTIVE DATE: Effective on January 2, 1985.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** on May 23, 1984 (49 FR 21796), which announced that Uniroyal Chemical, Division of Uniroyal, Inc., 74 Amity Rd., Bethany, CT 06525, had submitted a pesticide petition [PP 4F3066] proposing that 40 CFR 180.301 be amended by establishing tolerances for the combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on the raw agricultural commodity safflower seed at 0.2 part per million (ppm).

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

The data submitted in this petition and other relevant material have been evaluated. The scientific data considered in support of this tolerance include a 2-year dog feeding study with no-observed-effect level (NOEL) of 600 ppm (15.0 mg/kg), a 2-year rat feeding study with NOEL of 200 ppm (30.0 mg/kg), a 3-generation rat reproduction study with NOEL of 200 ppm (30.0 mg/kg), a rat teratology study which had negative teratogenic potential at 40 mg/kg (highest dose tested), a rabbit teratology study which showed negative teratogenic potential at 750 mg/kg (highest dose tested), and a mouse oncogenicity study which was negative for oncogenicity up to 2,500 ppm (375 mg/kg/day). An *in vivo* cytogenetic study was submitted, but was found to be unacceptable. A revised study is under way. Based on the rat feeding study with a NOEL of 200 ppm (30.0 mg/kg) and using a 100-fold safety factor, the allowable daily intake (ADI) is 0.1000 mg/kg/day and the maximum permissible intake (MPI) is 6.0000 mg/day for a 60-kg person. These tolerances and all other established tolerances for carboxin utilize 1.29 percent of the ADI. Tolerances have previously been established for residues of carboxin in or on a variety of raw agricultural commodities ranging from .010 to .50 ppm.

The metabolism of carboxin is adequately understood, and an adequate analytical method, gas chromatography with HECD-N Cell or a N/P flame detector, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612) the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

[Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 19, 1984.

Steven Schatzow,
Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.301 is amended by adding and alphabetically inserting the following commodity, to read as follows:

§ 180.301 Carboxin; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Safflower, seed	0.2
* * * * *	

[FR Doc. 84-33592 Filed 12-31-84; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-11

[FPMR Amdt. B-61]

Records Management; Discontinuance of Use of Standard Forms 136 and 137

AGENCY: National Archives and Records Service, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending its rules to discontinue the use of Standard Form 136, Annual Summary of Records Holdings, and Standard Form 137, Agency Records Center Annual Report. National Archives and Records Service (NARS) studies have shown, and agency records officers have confirmed, that neither Standard form is cost-effective for the results produced. The Standard Form 136 produces a limited amount of information that is not verifiably accurate and is little used. The Standard Form 137 produces information that can be gathered in more timely and accurate ways by NARS at the time of center inspections. This amendment eliminates the requirement that agencies submit these annual reports.

EFFECTIVE DATE: January 2, 1985.

FOR FURTHER INFORMATION CONTACT: David F. Peterson, Assistant Archivist for Federal Records Centers (202–724–1614).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the lease net cost to society.

List of Subjects in 41 CFR Part 101–11

Archives and records, Government property managment, Records and information managment.

PART 101–11—RECORDS MANAGEMENT

1. The authority citation for Part 101–11 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. The table of contents for Part 101–11 is amended by removing one entry and by removing and reserving two entries as follows:

Sec.
101–11.102–7 Removed
101–11.4901 [Reserved]
101–11.4905 [Reserved]

§ 101–11.102–7 [Removed]

3. Section 101–11.102–7 is removed.

4. Section 101–11.404–1 is amended by revising paragraph (a)(6) to read as follows:

§ 101–11.404–1 Comprehensive agency records disposition schedules.

(a) * * *

(6) Schedules shall be reviewed and, if necessary, updated annually. Agencies shall schedule the records of new programs within 1 year of their implementation.

§ 101–11.412–3 [Amended]

* * * * *

5. Section 101–11.412–3 is amended by removing paragraphs (d) and (e).

6. Sections 101–11.4901 and 101–11.4905 are removed and reserved as follows:

§ 101–11.4901 [Reserved]

§ 101–11.4905 [Reserved]

Dated: November 30, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–33395 Filed 12–31–84; 8:45 am]

BILLING CODE 6820–26–M

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41 CFR Part 101–49

[FPMR Amdt. H–151]

Utilization and Donation of Foreign Gifts and Decorations

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Final rule.

SUMMARY: This regulation updates GSA's policies and procedures concerning the utilization and donation of foreign gifts and decorations. Current regulations are highly restrictive regarding the transfer of gifts and decorations for Federal utilization and the use of such items for donation purposes; therefore, they are revised to promote maximum utilization of gifts and decorations by Federal agencies and eligible donees.

EFFECTIVE DATE: January 2, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. George W. Kinney, Director, Donation Division (703–557–1234).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–49

Conflict of interest, Decorations, Medals, Awards, Foreign relations, Government property, Government property management.

PART 101–49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

For the reasons set out in the preamble, 41 CFR 101–49 is amended as follows:

1. The authority citation for Part 101–49 reads as follows:

Authority. Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); and sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

2. The table of contents for Part 101–49 is amended to revise the following entry:

§ 101–49.302 Requests by public agencies and nonprofit tax-exempt activities.

Subpart 101–49.1—General Provisions

3. Section 101–49.101 is amended by revising paragraph (b)(2) to read as follows:

§ 101–49.101 Custody of gifts and decorations.

* * * * *

(b) * * *

(2) Donation for public display or other approved purposes;

* * * * *

Subpart 101–49.2—Utilization of Foreign Gifts and Decorations

4. Section 101–49.201–1 is amended by revising the introductory text of paragraphs (a) and (a)(8) to read as follows:

§ 101–49.201–1 Gifts and decorations required to be reported.

(a) Except as provided n §§ 101–49.106 and 101–49.201–2, tangible gifts and decorations that are not retained for official use or returned to the donor shall be reported to GSA. Tangible gifts and decorations that have been retained for official use shall be reported to GSA within 30 calendar days after termination of the official use. Gifts and

decorations shall be reported on Standard Form 120, Report of Excess Personal Property (see § 101–43.4901–120), to the General Services Administration (FM), Washington, DC 20406. The Standard Form 120 shall be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS" and include the following information:

* * * * *

(8) An indication whether the recipient is interested in having the gift or decoration donated to an eligible public agency or nonprofit tax-exempt institution for public display or other approved purposes if it becomes available for donation. This interest shall be documented in a letter outlining any special significance of the gift to the proposed donee institution. The mailing address and telephone number of both the recipient and the proposed donee shall be provided.

* * * * *

5. Section 101–49.202 is amended by revising paragraph (c), removing and reserving paragraph (d), and revising paragraph (e) to read as follows:

§ 101–49.202 Transfers to other Federal agencies.

* * * * *

(c) Gifts and decorations shall be transferred for public display or other bona fide agency use and not for the personal benefit of any individual. GSA may require that transfer orders be supported by justifications for the intended display or official use of requested gifts or decorations.

(d) [Reserved]

(e) The transfer document shall include the statement, "At such time as these items are no longer required, they will be reported to the General Services Administration, Office of Property Management (FM), Washington, DC 20406, and will be identified as foreign gift items, and cross-referenced to the original excess report number."

SUBPART 101–49.3—DONATION OF FOREIGN GIFTS AND DECORATIONS

6. Section 101–49.300 is revised to read as follows:

§ 101–49.300 Scope of subpart.

This subpart prescribes policies and procedures governing the donation of foreign gifts and decorations to public agencies and eligible nonprofit tax-exempt activities for public display or other approved purposes.

7. Section 101–49.301 is amended by revising paragraph (b) to read as follows:

§ 101–49.301 Donation of gifts and decorations.

* * * * *

(b) Donations of gifts and decorations will be made for public display or such other approved purposes as determined by GSA. Donations will be made in accordance with Part 101–44, except as otherwise provided in this Subpart 101–49.3.

8. Section 101–49.302 is recaptioned and revised to read as follows:

§ 101–49.302 Requests by public agencies and nonprofit tax-exempt activities.

(a) All transfers of gifts and decorations to the State agencies for donation to public agencies and eligible nonprofit tax-exempt activities shall be accompanied by use of SF 123, Transfer Order Surplus Personal Property (see § 101–44.4901–123). The SF 123, with any additional required documentation, shall be submitted for approval to the General Services Administration (FM), Washington, DC 20406. The SF 123 shall be prepared in accordance with the instructions in § 101–44.4901–123–1 and shall be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS."

(b) Each SF 123 submitted to GSA for donation of foreign gifts and decorations shall be accompanied by an original and two copies of a letter of intent, signed and dated by the authorized representative of the proposed donee, setting forth a detailed plan of utilization for the property. The letter of intent shall provide the following information:

(1) Identification of the applicant, including its legal name and complete address, its status as a public agency or as an eligible nonprofit tax-exempt activity, and the name, title, and telephone number of its authorized representative;

(2) Description of the gift or decoration requested, including its estimated or appraised value; and

(3) Details on the planned utilization of the gift or decoration, including where, how, and for what period of time (in years) it will be used for the purpose for which it is being acquired.

9. Section 101–49.304 is revised to read as follows:

§ 101–49.304 Conditions of donation.

Donation of gifts and decorations shall be accomplished by the use of a State agency distribution document (see § 101–44.208) which shall contain or incorporate by reference the following special handling conditions and use limitations imposed by GSA on the donation of gifts and decorations:

(a) The donee shall display or use the gift or decoration in accordance with its letter of intent, as may be modified to meet GSA requirements.

(b) The donee shall comply with all additional conditions covering the handling and use of any gift or decoration imposed by GSA.

(c) The donee shall allow the right of access to the donee's premises at reasonable times for inspection of the gift or decoration by duly authorized representatives of the State agency or the U.S. Government.

(d) During the period of restriction, the donee shall not sell, trade, lease, lend, bail, encumber, cannibalize or dismantle for parts, or otherwise dispose of the property; or remove it permanently for use outside the State; or transfer title to the gift or decoration directly or indirectly; or do or allow anything to be done that would contribute to the gift or decoration being seized, taken into execution, attached, lost, stolen, damaged, or destroyed.

(e) Upon the donee's failure to comply with any applicable condition or limitation during the period of restriction, the State agency may demand return of the gift or decoration and, upon demand, title and right to possession of the gift or decoration shall revert to the U.S. Government. In this event, the donee shall return the gift or decoration in accordance with instructions furnished by the State agency, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or as directed by the State agency. If the gift or decoration is lost, stolen, or cannot legally be recovered or returned for any other reason, the donee shall pay to the U.S. Government the fair market value of the gift or decoration at the time of its loss, theft or at the time that it became unrecoverable as determined by GSA. If the gift or decoration is damaged or destroyed, the State agency may require the donee to: (1) Return the item and pay the difference between the fair market value of the item if it were not damaged or destroyed and the fair market value of the damaged or destroyed item, or (2) pay the fair market value of the item if it were not damaged or destroyed, as determined by GSA.

Dated: December 12, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–33752 Filed 12–31–84; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6637]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

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

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

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0876, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

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

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

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

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

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Connecticut:					
Windham	Brooklyn, town of	090164A	Feb. 10, 1976, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp	Feb. 28, 1975	Jan. 3, 1985.
New London	Griswold, town of	090173A	Mar. 15, 1976, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp	Do	Do.
Windham	Killingly, town of	090136B	Sept. 5, 1975, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp	Feb. 18, 1977	Do.
New London	Sprague, town of	090105B	Apr. 14, 1976, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp	Aug. 27, 1976	Do.
Maine:					
Oxford	Andover, town of	230180	Oct. 31, 1975, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp	Nov. 8, 1974 and Oct. 15, 1976.	Do.
Vermont:					
Addison	Middlebury, town of	500006A	Jan. 28, 1972, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp		Jan. 3, 1985.
Windham	Westminster, town of	500139B	July 25, 1975, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp	Aug. 16, 1974 and Apr. 15, 177.	Jan. 3, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Region II					
New York: Franklin	Harrietstown, town of	361124A	Feb. 19, 1976, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp.	Jan. 10, 1975	Do.
Region IV					
Tennessee: Unicoi	Unincorporated areas	470238B	Dec. 17, 1979, Jan. 3, 1985, Jan. 3, 1985, Emerg.; Reg.; Susp.	Sept. 16, 1977	Do.
Region V					
Wisconsin: Manitowoc and Calumet.	Kiel, city of	550239B	July 10, 1984, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp.	Feb. 8, 1974 and Oct. 3, 1975.	Do.
Region VI					
Texas: Montgomery	Woodloch, town of	481168A	Dec. 19, 1974, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp.	Dec. 31, 1976	Do.
Region X					
Oregon: Benton	Corvallis, city of	410009E	Oct. 24, 1974, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp.	June 14, 1974, Dec. 26, 1975, Dec. 27, 1977, Nov. 7, 1978 and Apr. 7, 1981.	Do.
Washington: Skagit	Burlington, city of	530153B	Oct. 9, 1974, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp.	May 24, 1974 and June 4, 1976.	Do.
Do.	Mt. Vernon, city of	530158B	Jan. 21, 1975, Emerg.; Jan. 3, 1985, Reg.; Jan. 3, 1985, Susp.	May 17, 1974 and May 7, 1976.	Do.

Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

[44 CFR 64.6]

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 29, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: December 21, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–33962 Filed 12–31–84; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Amendment of Commission's Rules Concerning Written Determinations Regarding Interception of Telephone Conversations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission amended its rules concerning the delegation of authority to the General Counsel to issue written determinations regarding the interception of telephone coversations which was subsequently published in the **Federal Register** on December 6, 1984, 49 FR 47604.

This document corrects the amended section and regulations cited.

FOR FURTHER INFORMATION CONTACT: Joseph McBride, Office of General Counsel, Federal Communications Commission, Washington, D.C. 20554, (202) 632–6990.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions.

Erratum

In the matter of amendment of Part 0 of the Commission's Rules and Regulations to delegate authority to the Office of General Counsel to issue written determinations regarding the interception of telephone conversations.

Released: December 18, 1984.

PART 0—[AMENDED]

§ 0.251 [Amended]

On November 23, 1984, the Commission released an Order (FCC 84–553) concerning the above-captioned matter. In this connection, the Appendix portion or page 3 of the Order which amends Part 0 by adding § 0.251(h) is corrected to insert, in lieu of § 0.251(h), § 0.251(i).

Additionally, the regulations cited, are corrected to insert, in lieu of those previously cited, 41 CFR 101–37.311–3 (c), (d) and (f); and 41 CFR 101–37.311–4(a).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–33946 Filed 12–31–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 81 and 83

[PR Docket No. 84–478; FCC 84–592]

Identification of Public High Seas Telegraphy Coast Stations and Prohibiting Radio Checks on Distress Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This proceeding allows Public High Seas Telegraphy Coast stations to use A1 (Morse code) emission on the narrow-band direct-printing channels for station identification. This document also prohibits marine radio operators from calling the Coast Guard on VHF Channel 16 for radio checks. These actions are intended to improve calling procedures for narrow-band direct-printing, and to relieve both the Coast Guard and Channel 16 of congestion due to requests for radio checks.

EFFECTIVE DATE: January 25, 1985.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, Aviation and Marine Branch, Washington, D.C. 20554, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Radio, Telegraph.

47 CFR Part 83

Communications equipment, Radio, Telephone, Vessels.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 81 and 83 of the rules concerning the identification of public high seas telegraphy coast stations and prohibiting radio checks on distress frequencies; PR Docket No. 84-478

Adopted: November 30, 1984.
Released: December 19, 1984.
By the Commission.

1. This Report and Order (1) amends the rules to allow public high seas coast stations to identify narrow-band direct-printing transmission using A1 emission on the "mark" frequency, and (2) prohibits vessels from calling the U.S. Coast Guard (USCG) on VHF marine Channel 16 for routine radio checks. These amendments where proposed in a *Notice of Proposed Rule Making* (Notice) released May 22, 1984, 49 FR 21771 (May 23, 1984).

Station Identification

2. The Commission has granted twelve (12) requests for waiver of the FCC's rules to Public Coast Stations to allow them to identify using A1 emission (telegraphy using on-off keying) on the "Mark" frequency in lieu of F1 emission (telegraphy using frequency shift keying) prior to a narrow-band direct-printing (NB-DP) transmission. The A1 signal can be readily understood by the shipboard operator, unlike the F1 signal. Two comments were filed in support of the NB-DP proposal. RCA Global Communications, Inc. ("RCA Globcom") has used A1 emission at two public coast stations and described it as ". . . an effective method for identifying the channel which [the coast station] guards, and for permitting ships to locate that channel." RCA Globcom believes that this practice shortens the time necessary to establish communications. Like other licensees using A1, RCA Globcom reports no instances of interference caused by these transmissions. The Radio Officers Union believes tha this proposal is a "practical step which will help reduce interference" (ROU comments, page 2). Therefore, we are amending Section 81.143 of the rules as proposed to improve the efficiency and convenience of establishing ship-shore NB-DP communications.

Radio Checks

3. At the request of the USCG, the Commission proposed to prohibit calls to the Coast Guard on Channel 16 for routine radio checks. VHF Channel 16 (156.8 MHz) is the Distress, Safety and Calling Channel, and is monitored by the USCG to intercept distress signals. The USCG reports that radio check requests have become so prevalent that they actually interfere with the distress watch and distress communications. Six parties filed comments on the Commission's proposal. The four supporting comments were filed by Radio Officers Union (ROU), Lewis H. Roberts, R. Jerrell Henry (Henry) and Roland R. Harbach. The opposing comments were filed by James Oliver and John W. Carpenter. No reply comments were filed.

4. Comments supporting the proposal suggested alternative ways in which operators could determine that their radios are in working order. For example, one ship station might call another ship station, a public coast station, or the marina or yacht club with which it might be affiliated. The ROU suggested that marine radios could be fitted with an artificial antenna since such a device could give the necessary reading. Henry stated that modern VHF radios are highly reliable and suggested that licensees voluntarily provide each other with radio checks on working channels to determine if radio receivers are working properly.

5. The opposing comments expressed concern over how to ensure that a radio functions properly if the USCG could not be called for a radio check. However, in the routine cases, any of the means described above could be utilized. Because of the interference with the USCG's distress watch and the availability of alternate means to ensure a radio is operating properly, we are amending the rules to prohibit calling the USCG for routine radio checks on Channel 16 as proposed. Commission representatives, qualified radio technicians and ships' personnel installing equipment or correcting deficiencies in the station's radiotelephone equipment will continue to be allowed to call the USCG on Channel 16 for radio checks. This action is consistent with that taken in 1970 to prohibit radio checks on 2182 kHz, the international medium frequency (MF) Distress and Calling Channel.

6. Pursuant to section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, we certify that the new rules will not significantly impact a substantial number of small entities. The change relating to identification of public high seas telegraphy coast stations will affect less than 15 stations and is entirely permissive in nature. The change in radio test procedures on the VHF Distress, Safety and Calling channel will not result in any economic impact on small businesses or individuals.

7. The amendments contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

8. Accordingly, It is ordered, That under the authority contained in sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r), the Commission's rules are amended as set forth in the attached Appendix, effective January 25, 1985.

9. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

10. It is further ordered, That this proceeding is terminated.

11. Regarding questions on matters covered in this document contact Maureen Cesaitis (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA FIXED STATIONS

1. Section 81.132(a)(1) is amended in the "Class of emission" column by adding new language opposite the entry "2035 to 27,500 kHz" to read as follows:

§ 81.132 Authorized class of emission.

(a) * * *

Frequency band	Class of emission
* * * * *	
2035 to 27,500 kHz	A1 on frequencies listed in § 81.206; A1 or F1 on frequencies listed in § 81.204(i)
* * * * *	

2. Section 81.143 is amended by adding a new subparagraph (c)(3) to read as follows:

§ 81.143 Narrow-band direct-printing radiotelegraph equipment.

* * * * *

(c) * * *

(3) Class A1 emission may be used on the "mark" frequency for station identification at licensed public high seas telegraphy coast stations and for establishing communications with ship stations, provided no harmful interference is caused.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.178 is amended by revising paragraph (b) to read as follows:

§ 83.178 Unauthorized transmissions.

* * * * *

(b) Use selective calling on 2182 kHz or 156.8 MHz, or call the U.S. Coast Guard for radio checks on either of these frequencies. Commission representatives, qualified radio technicians, and qualified ships' personnel may call the U.S. Coast Guard for radio checks during FCC inspections, when installing or repairing equipment, or when requested by the U.S. Coast Guard to conduct an operational check.

* * * * *

2. Section 83.365 is amended by revising the heading and paragraphs (a) and (b) in their entirety, and by adding new paragraph (c), all to read as follows:

§ 83.365 Test procedures.

(a) Ship stations, when conducting operational transmitter tests, must avoid causing harmful interference to other transmissions. If feasible, radiation must be entirely suppressed. If radiation cannot be suppressed, the following procedures shall be followed:

(1) Prior to the test, the operator of the ship's transmitter must determine that interference will not be caused to any communication in progress. If the test transmissions are likely to interfere with other transmissions, the test operator must obtain the consent of the other station(s) before initiating the test;

(2) The testing station's call sign, followed by the word "test", must be announced on the radio-channel being used for the test;

(3) If any station responds "wait", the test must be suspended for a minimum of 30 seconds, then repeat the call sign followed by the word "test" and listen again for a response. To continue the test, the operator will use counts or phrases which do not conflict with normal operating signals, and will end with the ship's call sign. Test signals must not exceed ten seconds, and shall not be repeated until at least one minute has elapsed. On the frequency 2182 kHz or 156.8 MHz, the time between tests must be a minimum of five minutes.

(b) Testing of transmitters must be confined to single frequency channels on working frequencies. However, 2182 kHz and 156.8 MHz may be used to contact other ship or coast stations when signal reports are necessary. Short tests on 2182 kHz by vessels with DSB (A3) equipment for distress and safety purposes are permitted to evaluate the compatibility of that equipment with an SSB emission (A3J) system. U.S. Coast Guard stations may be contacted on 2182 kHz or 156.8 MHz for test purposes *only* when tests are being conducted during inspections by Commission representatives, when qualified radio technicians are installing or repairing the station radiotelephone equipment, or when qualified ships personnel conduct an operational check requested by the U.S. Coast Guard. In these cases the test must be identified as "FCC" or "technical".

(c) Survival craft transmitter tests may not be made within range of automatic alarm receivers which they can actuate. Survival craft transmitters may not be tested on the frequency 500 kHz during the silence periods.

[FR Doc. 84-33989 Filed 12-31-84; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1135

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Final Rules.

SUMMARY: In accordance with the provisions of the Staggers Rail Act of 1980 (49 U.S.C. 10707a), the Commission is adopting modified version of the "all inclusive" index of railroad costs. The index was proposed by the Association of American Railroads and modified after reviewing suggestions submitted by various parties. The Commission is also changing the timetable for submission and review of index calculations and lengthening the notice period upon which rate increases granted under these provisions may become effective from one to ten days. The Staggers Rail Act clearly mandates the establishment of one single nationwide index. We believe it was the intent of that Act to simplify the procedures for increasing rail rates and that the application of the single RCAF to all base rates best accomplishes that intent. Given the complex and time consuming nature of index production, the compilation and publishing of regional or railroad specific indices is neither feasible nor desirable. These rules are to modify those issued in a decision served April 17, 1981 (46 FR 22594, April 20, 1981).

ADDRESS: To obtain copies of the full decision contact: Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th Street & Constitution Avenue, NW, Washington, D.C. 20423 (202) 275-7428.

EFFECTIVE DATE: March 4, 1985.

FOR FURTHER INFORMATION CONTACT:

William T. Bono (202) 275-7354,

or

Robert C. Hasek, (202) 275-0938.

SUPPLEMENTARY INFORMATION:

Background

Section 203 of the Staggers Rail Act of 1980 (Staggers Rail Act) (codified at 49 U.S.C. 10707a) requires the Commission to publish a rail cost adjustment factor (RCAF) on, at least, a quarterly basis. That section requires the numerator of the RCAF to be latest published index of railroad costs, as compiled or verified by the Commission. The current denominator is the index which was controlling (120.9) for the fourth quarter of 1982 rebased to 100.0. The RCAF must reflect the changing composition of railroad costs, including the quality and mix of materials and labor.

In Ex Parte No. 290 (Sub-No. 2) *Railroad Cost Recovery Procedures*, 364 I.C.C. 841 (1981), the Commission adopted the interim indexing methodology which is currently used. That interim index is a modified version of the input price index of the Association of American Railroads (AAR). It is compiled and submitted on a quarterly basis by AAR and is reviewed and analyzed by the Commission. The quarterly interim index is subject to Commission modification and is used to determine the RCAF. A railroad may, filing a tariff, automatically increase its rates to no more than the RCAF on one day's notice under these general increases provisions. Additionally the railroads are, of course, free to exercise other pricing freedoms permitted under law. Although railroads may increase their rates to the maximum RCAF level, they are under no obligation to do so and, as a matter of record, some rates have not

increased when the opportunity has been available to do so.

In adopting the interim index methodology the Commission decided that the Producer Price Index (PPI) would be used for measuring the "all other" cost category, only until AAR's "all inclusive" index became available. It further stated that it would consider developing and implementing a composite index, if implementation of AAR's "all inclusive" index were not feasible within a reasonable time period.

AAR filed its "all inclusive" index on January 29, 1982. The new index made several changes in the methods of calculating the indices for wages, fringe benefits, fuel and materials and supplies. It also substituted alternative methodologies for calculating the indices in the "all other" category, which are now measured by the PPI.

In a decision served April 27, 1982 (47 FR 18012, April 27, 1982), we reopened Ex Parte No. 290 (Sub-No. 2), *supra*, for the purposes of soliciting public comments on AAR's proposed "all inclusive" index, the one-day notice period, the use of a wage additive, AAR's proposed opportunity cost methodology and Commission auditing procedures. Comments were due July 9, 1982.

In a decision served June 20, 1983, (48 FR 29024, June 24, 1983) a Notice of Proposed Rulemaking (NPR) was issued concerning the notice period for filing rate increases under the provisions of Ex Parte No. 290 (Sub-No. 2) *supra*, public participation in the computation of the RCAF, public audit and access to AAR's underlying data, the use of wage additives and opportunity costs for funds collected but not yet disbursed. That NPR also proposed the adoption of a substantially modified version of AAR's "all inclusive" index of railroad input costs. The decision noted that the substantially modified index was no longer the work of AAR alone, but represented the input of AAR, federal and state government agencies, individual shippers, shipper associations, trade associations and the Commission.

The decision also stated that the Staggers Rail Act clearly mandates the establishment of one single nationwide index. We believe it was the intent of that Act to simplify the procedures for increasing rail rates and that the application of the single RCAF to all base rates best accomplishes that intent. Given the complex and time consuming nature of index production, the compilation and publishing of regional or railroad specific indices is neither feasible nor desirable.

The decision also cited the establishment of another rulemaking proceeding, Ex Parte No. 290 (Sub-No. 4) *Railroad Cost Recovery Procedures—Productivity Adjustment*. In instituting this proceeding, we specifically stated that comments relating to the productivity issue would be considered separately from those comments directed to the April 27, 1982 Notice and Decision in Ex Parte No. 290 (Sub-No. 2), *supra*.

Comments were originally due August 23, 1983. In response to requests for an extension of the comment period, the due date for comments was extended to September 13, 1983.

The All Inclusive Index

Labor

Labor costs are the largest single part of the index. A single straight time hourly rate for both union and non-union railway employees, based on data reported on Wage Forms A and B, will be used to measure this component. Additionally, the labor portion of the index is computed to include Conrail at "national contract" levels in order to comply with section 1159 of the Northeast Rail Service Act of 1981, Pub. L. No. 9735 (NERSA). All other railroads are included at their actual labor costs.

Fringe Benefits

Contribution to the railroad retirement fund system will be computed on an average effective rate (the average percentage of wages) paid by employers to the railroad retirement system and other retirement plans.

Fuel

The current AAR method for the measurement of the fuel component of the index will continue to be used.

Material and Supplies

The market basket for the materials and supplies portion of the index will continue to be used. Any changes in either the composition of market basket itself or to the collection or reporting of market basket data must be approved by the Commission's Bureau of Accounts.

Equipment Rents

There will be a two-part system for indexing equipment rents. The car-hire component shall be indexed through use of the rates found in the Universal Machine Language Equipment Register (UMLER). Lease rentals will be indexed through quarterly data, collected in the same manner as the data reported in Schedule 410 of the R-1 Annual Report. Actual locomotive horsepower and freight car capacity rented will be used as deflators.

Purchased Services

Purchased services expenses will be indexed using the Producer Price Index for Industrial Commodities Less Fuel and Related Products and Power.

Depreciation

Depreciation expense will be indexed using the Producer Price Index for Railroad Equipment.

Loss and Damage

Loss and damage expenses will be indexed using the Producer Price Index for Industrial Commodities Less Fuel and Related Products and Power.

Casualties and Insurance

The casualties and insurance component of the index will be measured by the Industrial Commodities Less Fuel and Related Products and Power Index as prepared by the Bureau of Labor Statistics until actual data become available.

Interests

Interest expense will be removed from the index calculations and the other index components will be reweighted to assume zero interest expense.

General and Administrative

The general and administrative component of the index will be measured using the index of Industrial Commodities Less Fuel and Related Products and Power Index as prepared by the Bureau of Labor Statistics.

Taxes

Taxes will be indexed using the Producer Price Index for Industrial Commodities Less Fuel and Related Products and Power.

List of Subjects in 49 CFR Part 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

PART 1135—[AMENDED]

In Title 49, Part 1135 is amended by revising paragraphs (a), (c), and (d) of § 1135.1 to read as follows:

§ 1135.1 Quarterly adjustment of rates.

(a) Rail carriers may adjust rates and charges quarterly in order to compensate for inflationary cost increases. The quarterly adjustment shall not exceed the percentage change in the all inclusive index of railroad costs as proposed by the Association of American Railroads and modified by the

Commission. The Commission will make modifications of the revisions to the index as necessary.

* * * * *

(c) The Association of American Railroads must file the actual index calculations with the Commission on the fifth day of the last month of the prior quarter (or the closest business day if the fifth is a Saturday, Sunday or holiday). The index is to be calculated for the mid-point of the next quarter.

(d) Tariffs containing adjustments under the provisions of this rule may be filed to become effective on not less than ten days' notice.

* * * * *

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because only Class I railroads and their trade association, AAR, are directly involved in the furnishing of data and the calculation of the index. The Association of American Railroads may submit an index calculated according to the revised methodology beginning with the first quarter of 1985.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Decided: November 21, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley and Strenio. Chairman Taylor dissented in part. Commissioner Lamboley did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-33772 Filed 12-27-84; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 50, No. 1
Wednesday, January 2, 1985

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ANE-26]

Amend the Description of the Lebanon, NH, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the description of the Lebanon, New Hampshire Control Zone so as to provide protected airspace for aircraft executing a new Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway 18 at the Lebanon Municipal Airport, Lebanon, New Hampshire.

DATES: Comments must be received on or before March 1, 1984.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 84-ANE-26.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

An informal docket may also be examined during normal business hours in the: Air Traffic Division, ANE-500 Room 304, 12 New England Executive Park, Burlington, MA 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts; telephone (617) 273-7141.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ANE-26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, ANE-7, 12 New England Executive Park, Burlington, Massachusetts 01803, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW, Washington, D.C. 20591, or by calling (202) 426-8085.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to section 171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Lebanon, New Hampshire Control Zone so as to provide protected airspace for instrument flight rules aircraft executing a new instrument landing system (ILS) standard instrument approach procedure to Runway 18 at Lebanon Municipal Airport, Lebanon, New Hampshire.

Section 171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Lebanon, New Hampshire Control Zone [Amended]

Following the words "Lebanon, New Hampshire", insert: "within 4 miles each side of the DV LOM 007° bearing (023° Magentic) extending from the 5 mile radius to 9.5 miles northeast of the DV LOM"; (The remainder is unchanged.)

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.65))

Issued in Burlington, Massachusetts, on December 17, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-33906 Filed 12-31-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-ASW-56]

Proposed Designation of Transition Area: Mountain View, AR.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Mountain View, AR. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Wilcox Memorial Airport. This action is necessary since a nonfederal nondirectional radio beacon (NDB) is being installed to serve the Wilcox Memorial Airport.

DATE: Comments must be received on or before February 19, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 84-ASW-56, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2463.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASW-56." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for protection of aircraft arriving and departing the Wilcox Memorial Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Mountain View, AR [New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of the Wilcox Memorial Airport (latitude 35°51'52"N., longitude 92°05'33" W.) and within 3 miles each side of the 044 degree bearing of the NDB (latitude 35°52'03" N., longitude 92°04'40" W.) extending from the 6.5-mile radius area to 8.5 northeast of the NDB.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Fort Worth, TX, on December 18, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

BILLING CODE 4910-13-M



[FR Doc. 84-33907 Filed 12-31-84; 8:45 am]

BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket No. 84-ASW-54]

Proposed Alteration of Transition Area; Brinkley, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the transition area at Brinkley, AR. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Frank Federer Memorial Airport. This action is necessary since the final approach to the airport has been realigned to approach the airport from a different direction.

DATES: Comments must be received on or before February 19, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 84-ASW-54, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2463.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASW-54." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign the transition area at Frank Federer Memorial Airport to accommodate instrument approaches from a different direction. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Brinkley, AR, Revised

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Frank Federer Memorial Airport (latitude 34°52'48" N., longtitude 91°10'35" W.) and 3 miles each side of the 011-degree bearing of the NDB (latitude 34°52'53" N., longitude 91°10'40" W.) extending from the 5-mile radius area to 8.5 miles north of the NDB.

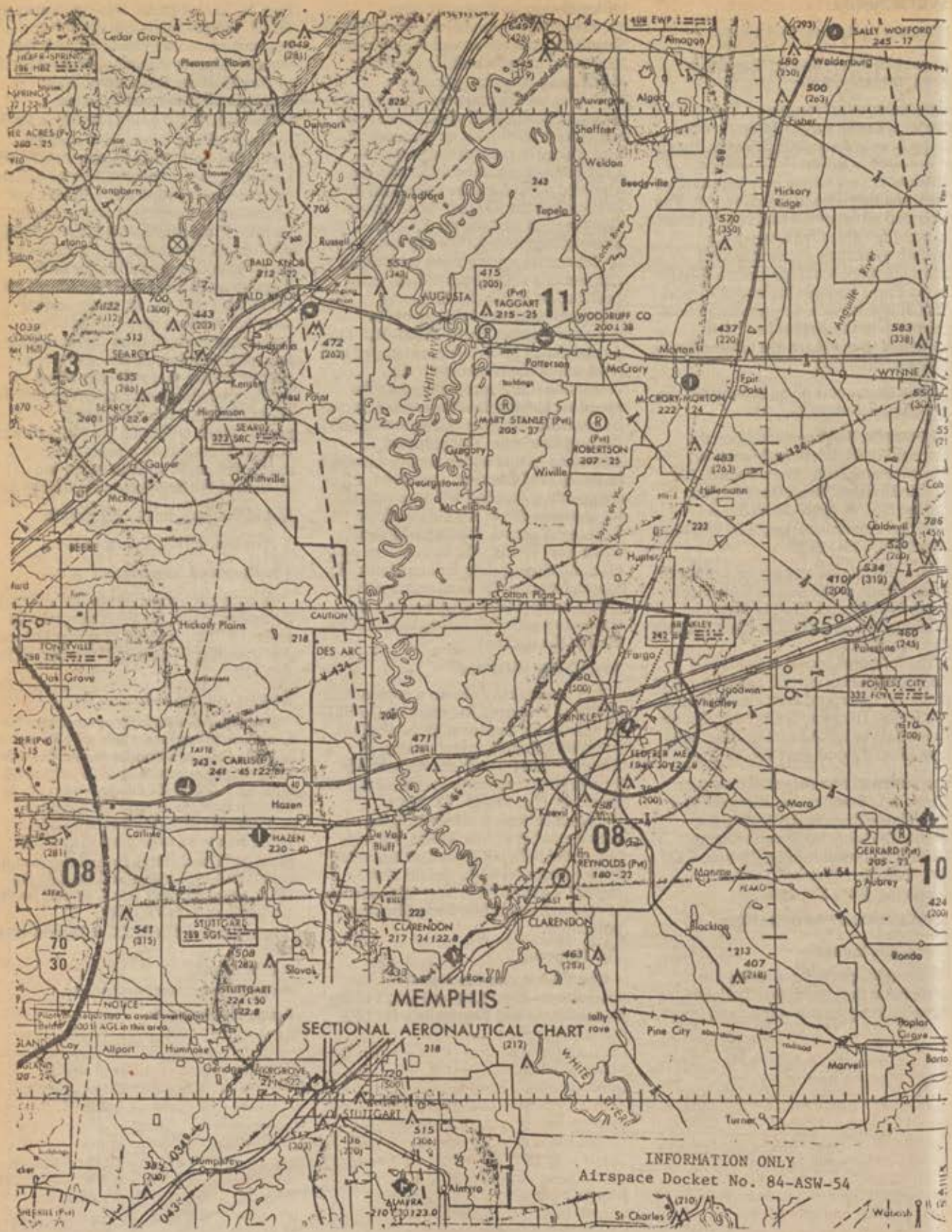
(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Fort Worth, TX, on December 14, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

BILLING CODE 4910-13-M



[FR Doc. 84-33908 Filed 12-31-84; 8:45 am]

BILLING CODE 4910-13-C

CIVIL AERONAUTICS BOARD

14 CFR Parts 211, 272, and 302

[EDR-478, PDR-89, Docket 42721]

Applications for Permits to Foreign Air Carriers, Essential Air Transportation to the Freely Associated States, Rules of Practice in Board Proceedings

Editorial Note: FR Doc. 84-33742, published in the Federal Register of Monday, December 31, 1984, renamed Chapter II of Title 14 as follows: "Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings)".

Dated: December 24, 1984.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to adopt rules to implement the provisions of the aviation economic agreement supplementing the Compact of Free Association between the United States, the Federated States of Micronesia and the Marshall Islands. The rules would: (1) Establish procedures for the grant of a special class of foreign air carrier permit to "Freely Associated State Air Carriers"; (2) allow these carriers to apply for authority to engage in overseas air transportation between Guam, the Commonwealth of the Northern Mariana Islands and Honolulu, Hawaii, and interstate air transportation within the Commonwealth of the Northern Mariana Islands; (3) make provision for the guarantee of essential air transportation to certain Freely Associated State points, with subsidy if necessary; and (4) permit Freely Associated State Air Carriers to be eligible to provide such subsidized essential air transportation under certain conditions. The CAB is proposing these rules on its own initiative.

DATES: *Comments by:* March 4, 1985.

Reply comments by: March 25, 1985.

Comments received after these dates will be considered by the Board only to the extent practicable.

Requests to be on Service List by: January 16, 1985.

The Office of Documentary Services prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 42721, Office of Documentary Services, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in the Office of Documentary Services, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590 as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Peter B. Schwarzkopf, Office of Assistant General Counsel for International Law, C-20, (202) 472-5621, Teresa Smith, Office of Essential Air Service, S-60, (202) 426-9820, or Joanne Petrie, Office of Assistant General Counsel for Regulations and Enforcement, C-50, (202) 426-4723; U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The proposed Compact of Free Association between the United States, on the one hand, and the Federated States of Micronesia and the Marshall Islands, on the other (hereafter referred to as the "Freely Associated States"), will create a new semi-independent status for these island governments in the Trust Territory of the Pacific Islands. The Compact is currently before Congress for adoption. Supplementary to the Compact is the Federal Programs and Services Agreement. Article IX of that Agreement deals with Civil Aviation Economic Services (hereafter referred to as the "Aviation Agreement"). Subject to the special provisions of the Aviation Agreement, these Micronesian islands would be treated as foreign points, and carriers owned and controlled by their citizens as foreign air carriers.

Paragraph 5 of Article IX provides that the Civil Aeronautics Board will guarantee essential air transportation, with subsidy if necessary, between the United States and certain points in the Federated States of Micronesia and the Marshall Islands. In addition, paragraph 5 provides that Freely Associated State Air Carriers, which are air carriers owned and controlled by citizens of the Federated States of Micronesia, the Marshall Islands and/or the United States, may be authorized by the Board to engage in local air transportation between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, Hawaii (overseas air transportation), and between points in the Commonwealth of the Northern Mariana Islands (interstate air transportation). Freely Associated State Air Carriers could be selected to perform subsidized essential air transportation to these Micronesian points only if no U.S. air carrier were available to perform such transportation, or the subsidy cost would be substantially less than for an available U.S. air carrier.

Section 221(a)(5) of the Compact provides that the Civil Aeronautics Board, or its successor agencies, have "the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact." The Compact will be adopted by both Houses of Congress as a public law. Therefore, the Board, or its successor agency, will be granted specific statutory authority to implement the provisions of paragraph 5 of the Aviation Agreement.

Subparagraph 5(h) of the Aviation Agreement provides:

> (h) The Civil Aeronautics Board shall adopt such rules to implement the provisions of this paragraph as the Board, in its discretion, deems appropriate.

These proposed rules would implement the provisions of paragraph 5 of the Aviation Agreement.

Essential Air Service

Subparagraph 5(a) of the Aviation Agreement provides that, "until October 24, 1988 and thereafter if extended by the laws of the United States," U.S. carriers will "be eligible for subsidy compensation necessary to support esssential air transportaion, at a level determined by the Civil Aeronautics Board, between the United States and points in the Marshall Islands and the Federated States of Micronesia receiving regularly scheduled air service by Continental/Air Micronesia on August 26, 1982, and between such points in the Marshall Islands and the Federated States of Micronesia." Subparagraph 5(a) further provides, "In determining the level of essential air transportation the Civil Aeronautics Board shall take account of all air service, including connecting service, provided to the Marshall Islands and the Federated States of Micronesia, including service by United States, Freely Associated State and all other carriers."

Since the Board's subsidy authority is derived from the provision of the Compact that grants the statutory authority to implement paragraph 5 of the Aviation Agreement, and not from section 419 of the Federal Aviation Act, the proposed rules differ in several respects from the provisions of section 419. Indeed, the subsidization of routes that may be served, in whole or in part, by foreign air carrier operations over which the Board's jurisdiction may be severely limited, is so different in nature from the subsidization of domestic points with their relatively easy access to the United States air transportation

system, that different concepts necessarily must be applied. Thus, domestic subsidy is based primarily on the concept of service by only a single carrier. The Aviation Agreement and the proposed rules, however, contemplate that there may be service by carriers in addition to the subsidized U.S. or Freely Associated State air carrier. On the other hand, the Agreement specifies that all such service, including connecting, multi-stop or service via foreign points will be considered in the Board's determination of the level of essential air transportation. Moreover, the level of essential air transportation determined by the Board would be based on traffic requirements, without any specific minimum similar to section 419(f)(1). Section 272.4 of the proposed rule is intended to clarify the existence of these basic differences.

The rule is applicable only until October 24, 1988, unless the subsidy provisions are specifically extended by Congress, the period provided in the Aviation Agreement. Moreover, the applicability of the rule would cease to points in the territory of a government that opts out of the subsidy provisions, as permitted under paragraph 8 (b) or (d) of the Aviation Agreement and Article XII.

Section 272.3 specifies the points eligible for the guarantee of essential air service. As provided in the Agreement, these are the points that were served by Continental/Air Micronesia in the Federated States of Micronesia and the Marshall Islands, respectively, on August 26, 1982.

Section 272.5 requires that the Board make a determination of Essential Air Transportation for the specified eligible points within nine months after the effective date of the Compact of Free Association. Various applicable provisions of Part 325 of the Board's regulations will govern the procedures for making an essential air transportation determination. Pending the making of such determination carriers serving the market will be required to file a 90 day notice of suspension, reduction or termination of service if after such decrease in service the aggregate of all service in the market would fall below the levels of service required of Continental/Air Micronesia in Order 80-9-63 (§ 272.7(a)(1)).

Section 272.6 sets forth the principal considerations of the Board in determining the level of essential air transportation. The primary consideration will be a service that will be sufficient to meet the demonstrated level of traffic demand. Of course, an essential air transportation level is designed to provide the minimum level of service essential to the needs of the territory, not the optimum level of service that may be desirable. Thus, the amount of subsidy compensation required for a specific level of service will be an important consideration, as well as alternative patterns and modes of service. As specified in the Agreement, all patterns of connecting service via U.S., Freely Associated State or foreign points, by U.S., Freely Associated State, foreign or other air carriers will be considered in this determination. The peculiar needs of the Freely Associated States for air transportation services will also be an important consideration.

Sections 272.7 and 272.8 make provision for the continuation of existing U.S. or Freely Associated State air carrier service pending the determination of essential air transportation and the selection of an alternative carrier to provide that level of service, with subsidy compensation if necessary. These provisions are similar to the procedures under section 419 of the Federal Aviation Act, except that no distinction is made between operations by commuter or certificated air carriers. Any U.S. or Freely Associated State air carrier providing service to an eligible point must give 90 days' notice of a termination, suspension, or reduction of service, which together with service by all other carriers, would result in an aggregate level of service below the level of essential air transportation. Various provisions of Part 323 of the Board's regulations, to the extent applicable, will govern the procedures for filing such notices.

The Board will direct the carrier to continue its service at the level of essential air transportation until an alternative carrier is selected to provide essential air transportation and inaugurates service. The Board will make provision for the payment of any losses incurred by reason of the directed continuation of such service. The Board's directive may be revised from time to time as circumstances may require. Amounts determined by the Board for the payment of losses will be paid by the Department of State from funds appropriated for this purpose.

Section 272.9 governs, the selection of a carrier and the payment of compensation, if necessary, for the provision of the level of essential air transportation determined by the Board. Normally, a U.S. air carrier will be selected. However, a Freely Associated State Air Carrier, holding a foreign air carrier permit issued by the Board under § 211.6 of these proposed rules, may be selected, if:

(1) No United States air carrier is available to provide the required essential air transportation; or

(2) The compensation necessary for the provision of the required essential air transportation would be substantially less than the compensation necessary if such essential air transportation were to be provided by a United States air carrier.

These provisions for the selection of a Freely Associated State Air Carrier track the provisions of paragraph 5(d) of the Aviation Agreement. The selection of a Freely Associated State Air Carrier will be subject to Presidential review.

Section 272.9(h) sets forth certain criteria for the selection of a carrier to provide essential air transportation. In addition to the criteria set forth in section 419(a)(4)(A) of the Federal Aviation Act, the Board will consider the amount of compensation that will be required to provide the proposed essential air transportation, the impact of the proposed service on service provided to other Freely Associated State points, and the views of the Governments of the Freely Associated States concerned.

The Board will determine the compensation necessary for the provision of the determined level of essential air transportation. Such compensation will be paid to the Board-selected carriers by the Department of State out of funds appropriated for this purpose. Provision will be made for the payment of compensation only so long as the Board determines that essential air transportation will not be provided to the eligible Freely Associated State point in the absence of payment of such compensation. The Board's selection of a carrier to provide essential air transportation, or its determination of the subsidy necessary for the provision of such essential air transportation, will be reviewable by the Board on its own motion or upon application of any carrier or government.

The Presidents of the Freely Associated States concerned, and their designated Authorities, must be served with copies of all documents filed in these proceedings, and these Governments will be parties to any such proceeding.

Subparagraph 5(c) of the Aviation Agreement permits the Board, or its successor, "to require that any United States, Freely Associated State or other carrier which provides service in a subsidized market comply with specified service, rate or fare conditions as may be necessary or desirable to minimize subsidy without undue impairment of the service provided."

This provision constitutes a recognition that subsidization of foreign markets could subject the U.S. Treasury to an unwarranted exposure from carrier service over which the United States has no control, and that may be influenced by other than economic factors without appropriate consideration of the subsidy costs involved. The conditions may be imposed only in subsidized markets, and then only as necessary or desirable to minimize subsidy without undue impairment of the service provided.

Since the Board, or its successor, may have only limited jurisdiction over foreign or Freely Associated State air carriers serving these markets, paragraphs (b) and (c) of § 272.10 make the effective imposition of such conditions by the Freely Associated States concerned a necessary precedent to the payment of subsidy compensation in markets where such conditions may be required. The affected carriers will be afforded an opportunity to comment upon any conditions proposed under this section.

Part 272 will become effective only upon the effectiveness of the Compact of Free Association and Airticle IX of the Federal Programs and Services Agreement. Before effectiveness of the Compact, subsidized essential air transportation will be governed by section 419 of the Federal Aviation Act and related Board rules.

Applications for Freely Associated State Foreign Air Carrier Permits

Paragraph 5(b) of the Aviation Agreement provides that the Board will establish a distinct classification of foreign air carrier known as a "Freely Associated State Air Carrier." Freely Associated State Air Carriers, in addition to authorized foreign air transportation, may be granted limited local traffic rights between Guam, the Commonwealth of the Northern Mariana Islands and Honolulu, Hawaii (paragraph 5(c)). They may also be selected under certain conditions to provide subsidized essential air transportation to the Freely Associated States (paragraph 5(d) and § 272.9(e) of these rules). This notice proposes to add a new § 211.6 to Part 211, setting forth the procedures and requirements for such applications.

Section 211.6(b) sets forth the requirements that must be met for a Federated States or Marshall Islands air carrier to qualify as a Freely Associated State Air Carrier. As provided in paragraph 5(b) of the Aviation Agreement, it must be organized under the laws of the Federated States, the Marshall Islands or the United States, and must have the consent of its government to such classification. U.S. consent to such classification is also required. Through an Agreed Minute to the Aviation Agreement, the U.S. gave notice that its consent would be "conditioned upon the carrier's demonstration to the satisfaction of the Civil Aeronautics Board that it is substantially owned and effectively controlled by citizens of the Marshall Islands, the Federated States of Micronesia, or the United States." Therefore, § 211.6(b) includes a requirement that the applicant clearly establish such substantial ownership and effective control, and that citizens of other countries do not have interests in the carrier sufficient to permit them to substantially influence its actions. The latter requirement may be waived by the Board upon a showing of substantial justification.

It is contemplated that in the post-Compact period the Federated States and the Marshall Islands will establish a safety regulatory regime for their national carriers with technical assistance from the Federal Aviation Administration. Article VIII of the Federal Programs and Services Agreement makes provision for such technical assistance. Moreover, it is not clear whether these governments will become parties to the International Civil Aviation Organization. Accordingly, in order to insure the necessary safety fitness of Freely Associated State Air Carrier applicants, § 211.6(b)(4) requires that the applicant establish that the FAA Administrator has determined that the carrier complies with such safety standards as may considered to be required by the Administrator.

Section 211.6(d) implements the provisions of paragraph 5(c) of the Aviation Agreement for the permissible grant of local traffic rights to Freely Associated State Air Carriers between Guam, the Commonwealth of the Northern Mariana Islands and Honolulu, Hawaii. The Board could grant such limited overseas and interstate air transportation rights where such grant would be in furtherance of the objectives of the Compact of Free Association and related agreements and would otherwise be in the public interest, but only where there would be no significant impariment of the economic viability of, or significant increase in the subsidy compensation necessary to maintain, existing service providing essential air transportation to any eligible Freely Associated State point. The Board may, subject to Presidential review, suspend, modify or revoke such authority at any time that these criteria are not being met.

Applications for such limited overseas and interstate air transportation authority must be supported by documentation establishing the impact of such services on the carrier's economic projections of its proposed services, the need for such services by the affected U.S. points, and the economic impact of such services on services provided by other carriers providing essential air transportation to eligible Freely Associated State points.

A carrier that does not meet the criteria (*e.g.*, ownership and control) for eligibility as a Freely Associated State Air Carrier could nevertheless apply for a foreign air carrier permit without eligibility for limited overseas and interstate air transportation rights, and without eligibility to provide subsidized essential air transportation.

The eligibility of a carrier owned and controlled by nationals of the Federated States or the Marshall Islands for a Freely Associated State Foreign Air Carrier Permit would continue only during such times as its government remained party to the applicable provisions of the aviation agreement (*i.e.*, did not exercise the opt out provisions of paragraph 8 of the agreement).

Service of Documents

Paragraph 6 of the Aviation Agreement requires that the United States "promptly notify the Government of the Marshall Islands or the Federated States of Micronesia, concerned, of the filing with the Civil Aeronautics Board of any application by a United States air carrier for authority under the laws of the United States to operate air services" to, through, beyond, within and between the territories of those Governments. The concerned Government is also to be made a party to any formal or informal proceeding. The Governments are required to designate "competent authorities" for the purpose of receiving the notice. These requirements are in conjunction with the grant to U.S. carriers of unrestricted access to those territories.

We propose to amend § 302.8, *Service of Documents;* § 302.9, *Parties;* and Subpart Q, *Expedited Procedures for Processing Licensing Cases;* § 302.1705, *Service of Documents* to implement these provisions. Similar service requirements appear in the new essential air service rule, §§ 272.5(e), 272.7(c) and 272.9(j).

Application for U.S. air carrier certificates of public convenience and necessity are made subject to the proposed § 302.8 and § 302.9 amendments by § 201.1. Subpart Q

applications would be subject to § 302.1705 (Subpart Q), in accordance with § 211.2.

The proposed amendments require that all applications "directly involving" service to the Federated States of Micronesia, the Marshall Islands, and Palau, and all other documents in the proceeding, shall be served on the President and designated Authorities of the Freely Associated State(s) concerned. The concerned Freely Associated State Government, or its designated Authorities, would be made a party to any such proceeding. The concept of "directly involving" is intended to include any new service from the United States to these points, but not to include a new or revised service on a route that happens to also serve these Freely Associated States.

Although it appears that the applicability of the Compact and Aviation Agreement to Palau may be delayed, we are including Palau in the service requirements because of the major interest that Government has in such air service even prior to the effective date of the Compact. For the same reason, applications for foreign air carrier permits, Freely Associated State Foreign Air Carrier Permits, and documents relating to essential air transportation service, are included in the service requirements. These service, and other procedural provisions, will become effective upon the effectiveness of the rule, although the Compact may not then be in effect. However, any Freely Associated State Foreign Air Carrier Permit issued under these rules would not be made effective prior to the effective date of the Compact.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96-354, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses or other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

The Board tentatively finds that these rules will not have a significant economic impact on a substantial number of small entities. There are only a few small U.S. air taxi operators in this area. The rule would not be detrimental to their operations. They would be eligible, under the rule, to receive subsidy for necessary essential air service operations.

List of Subjects in 14 CFR Parts 211, 272 and 302

Air carriers, Air transportation, Air transportation—foreign, Essential air service, Intergovernmental relations.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Chapter II as follows:

PART 211—[AMENDED]

1. Part 211, *Applications for Permits to Foreign Carriers*, would be amended as follows:

A. A new § 211.6 would be added to the Table of Contents to read:

Sec.

* * * * *

211.6 Freely Associated State Air Carrier applications.

* * * * *

B. A new § 211.6 would be added following § 211.5, to read:

§ 211.6 Freely Associated State Air Carrier applications.

(a) Foreign carriers owned and controlled by citizens of the Federated States of Micronesia, the Marshall Islands and/or the United States may, in accordance with the provisions of paragraph 5(b) of Article IX of the Federal Programs and Service Agreement, implementing section 221(a)(5) of the Compact of Free Association between the United States and those governments, apply for authority as "Freely Associated State Air Carriers." The permit application for such authority shall be labeled on the front page, "Application for Freely Associated State Foreign Air Carrier Permit."

(b) The application shall include, in addition to other requirements of this part, documentation clearly establishing:

(1) That the carrier is organized under the laws of the Federated States of Micronesia, the Marshall Islands or the United States;

(2) That substantial ownership and effective control of the carrier are held by citizens of the Federated States of Micronesia, the Marshall Islands and/or the United States;

(3) That citizens of other countries do not have interests in the carrier sufficient to permit them substantially to influence its actions, or that substantial justification exists for a temporary waiver of this requirement;

(4) That the Administrator of the Federal Aviation Administration has determined that the carrier complies with such safety standards as the Administrator considers to be required.

(5) That the government or governments of the Freely Associated States concerned have consented to the carrier's operation as a "Freely Associated State Air Carrier."

(c) If the Board is satisfied that the applicant meets the requirements of paragraphs (b)(1) through (b)(5) of this section, and that grant of all or part of the requested authority would otherwise be in the public interest, the Board may, subject to Presidential review under section 801(a) of the Federal Aviation Act, issue a "Freely Associated State Foreign Air Carrier Permit" to the applicant, including such terms, conditions or limitations as the Board may find to be in the public interest.

(d) An application under this section may include a request, in addition to other foreign air transportation, for authority to engage in overseas air transportation between Guam, the Commonwealth of the Northern Mariana Islands and Honolulu, Hawaii, and interstate air transportation within the Commonwealth of the Northern Mariana Islands. A request for all or part of such limited overseas and interstate air transportation authority shall be supported by documentation establishing:

(1) The impact of such overseas and interstate air transportation services on the economic projections of the carrier's proposed operations;

(2) The need for such proposed overseas and interstate air transportation by the affected U.S. points;

(3) The economic impact of such overseas and interstate air transportation on services provided by other carriers providing essential air transportation services to eligible Freely Associated State points within the scope of Part 272 of this chapter.

(e) The Board may grant a Freely Associated State Air Carrier authority to engage in all or part of the overseas and interstate air transportation requested in paragraph (d) of this section provided that the Board finds:

(1) That grant of such overseas and interstate air transportation authority would be in furtherance of the objectives of the Compact of Free Association and related agreements between the United States and the Freely Associated States, and would otherwise be in the public interest; and

(2) That grant of such overseas and interstate air transportation authority would not significantly impair the economic viability of existing services providing essential air transportation to any eligible Freely Associated State point within the scope of Part 272 of this chapter, or significantly increase compensation that may be required to

maintain any such essential air transportation.

(f) The Board may, at any time, subject to Presidential review under section 801(a), suspend, modify, or revoke such overseas or interstate authority if it concludes that the requirements specified in paragraph (e) of this section are not then being met.

(g) Nothing in this section shall be construed as limiting the authority of the Board to issue a foreign air carrier permit, other than a Freely Associated State Foreign Air Carrier Permit, to a carrier owned or controlled, in whole or in part, by citizens of the Federated States of Micronesia or the Marshall Islands, that does not meet the requirements of this section.

(h) The eligibility of a carrier owned or controlled, in whole or in part, by citizens of the Federated States of Micronesia or the Marshall Islands, respectively, for issuance of a Freely Associated State Foreign Air Carrier Permit under this section shall exist only for such period as paragraphs (a), (d), and (e) (eligibility for Freely Associated State essential air transportation subsidy compensation), or paragraph (c) (limited overseas and interstate air transportation authority), of paragraph (5) of the Agreement on Civil Aviation Economic Services and Related Programs (Article IX of the Federal Programs and Services Agreement) remain in effect between the Goverment of those States and the Government of the United States, insofar as authority is conferred by such permits for purposes specified in those subparagraphs.

(Secs. 204, 402, 416, 1001, 1002, and 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 771, 788, 797; 49 U.S.C. 1324, 1372, 1386, 1481, 1482, 1502)

2. A new Part 272, *Essential Air Transportation to the Freely Associated States*, would be issued to read as follows:

PART 272—ESSENTIAL AIR TRANSPORTATION TO THE FREELY ASSOCIATED STATES

Sec.

272.1 Purposes.
272.2 Applicability.
272.3 Points eligible for guaranteed essential air transportation.
272.4 Applicability of procedures and policies under section 419 of the Federal Aviation Act.
272.5 Determination of essential air transportation.
272.6 Considerations in the determination of essential air transportation.
272.7 Notice of discontinuance of service.
272.8 Obligation to continue service.
272.9 Selection of a carrier to provide essential air transportation and payment of compensation.
272.10 Conditions applicable to carriers serving a subsidized market.
272.11 Effective date of provisions.
272.12 Termination.

Authority: Secs. 102, 204, 1102, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 797; 49 U.S.C. 1302, 1324, 1502. (Sec. 221(a)(5) of the Compact of Free Association, and Paragraph 5 of Article IX of the Federal Programs and Services Agreement in implementation of that Compact, will be further authority after enactment.)

§ 272.1 Purpose.

Paragraph 5 of Article IX of the Federal Programs and Services Agreement implementing section 221(a)(5) of the Compact of Free Association between the United States and the Governments of the Federated States of Micronesia and the Marshall Islands (the Freely Associated States) provides, among other things, for the Board or its successor to guarantee essential air transportation, with compensation if necessary, to certain points in these islands. Subparagraph 5(h) of the Agreement provides that the Board shall adopt rules to implement the provisions of paragraph 5 as the Board in its discretion deems appropriate. Section 221(a)(5) of the Compact, which was adopted by Congress as a public law (Pub. L. ———, ———, 1985), provides that the Board or its successor has the authority to implement the provisions of paragraph 5 of the Agreement. This part implements these provisions of paragraph 5.

§ 272.2 Applicability.

This part establishes the provisions applicable to the Board's guarantee of Essential Air Transportation to points in the Federated States of Micronesia and the Marshall Islands, and the payment of compensation for such services. The rule applies to U.S. air carriers and Freely Associated State Air Carriers providing essential air transportation to these points.

§ 272.3 Points eligible for guaranteed essential air transportation.

(a) Subject to the provisions of this part, and paragraph 5 of Article IX of the Federal Programs and Services Agreement, the Board will make provision for the operation of essential air transportation, with compensation if necessary, to the following points in the Freely Associated States:

In the *Federated States of Micronesia:* Ponape, Truk and Yap.

In the *Marshall Islands:* Majuro and Kwajalein.

(b) The points specified herein in the Federated States of Micronesia or the Marshall Islands, respectively, shall cease to be eligible points under this part if either of those Governments withdraw from the subsidy provisions of Article IX of the Federal Programs and Service Agreement in accordance with paragraph 8 of Article IX or Article XII of that Agreement.

§ 272.4 Applicability of procedures and policies under section 419 of the Federal Aviation Act.

Since the authority of the Board to guarantee essential air transportation is derived from the Federal Programs and Services Agreement and the Compact of Free Association, the provisions and procedures utilized by the Board in implementation of section 419 of the Federal Aviation Act will be followed only to the extent determined by the Board to be consistent with the obligations assumed by the United States in the Agreement and Compact, and the provisions of this part.

§ 272.5 Determination of essential air transportation.

(a) The Board shall determine the level of essential air transportation for the eligible points set forth in § 272.3 within nine (9) months from the effective date of the Compact of Free Association.

(b) Procedures for the determination of essential air transportation under this section, and review of that determination, shall, except to the extent otherwise directed by the Board, be governed by § 325.4 (except the application of section 419(f) in § 325.4(b)); § 325.6(a); § 325.7 (except §§ 325.7(a)(2) and 325.7(b)(g)); §§ 325.8–325.11; § 325.12 (provided that all documents shall be served on the President and the designated authorities of the Freely Associated State concerned); and §§ 325.13 and 325.14 of this chapter.

§ 272.6 Considerations in the determination of essential air transportation.

(a) In the determination of essential air transportation to an eligible Freely Associated State point, the Board shall consider, among other factors, the following:

(1) The demonstrated level of traffic demand;

(2) The amount of compensation necessary to maintain a level of service sufficient to meet that demand;

(3) The extent to which the demand may be accommodated by connecting or other services of U.S., Freely Associated State, or foreign carriers by air—through U.S., Freely Associated State, or foreign points—that provide access to the U.S. air transportation system;

(4) Alternative modes of transportation that may be available; and

(5) The peculiar needs of the Freely Associated States for air transportation services.

(b) The Guidelines for Individual Determinations of Essential Air Transportation set forth in Part 398 of this chapter shall be applied only to the extent the Board concludes that they are applicable to the special circumstances affecting transportation to the Freely Associated States and reflective of the provisions of this part.

(c) Nothing in this part shall be construed as providing for a level of essential air transportation that would exceed the level of service justified by the considerations set forth in paragraph (a) of this section.

§ 272.7 Notice of discontinuance of service.

(a) An air carrier or Freely Associated State Air Carrier shall not terminate, suspend, or reduce air service to any eligible Freely Associated State point, unless it has given notice as specified in this section, if as a result of the reduction of such service the aggregate of the remaining air service provided to such point would be below:

(1) If the Board has not made a determination of essential air transportation for such point, the level of service specified in Order 80–9–63; and

(2) If the Board has made a determination of essential air transportation for such point, that level of essential air transportation.

(b) An air carrier or Freely Associated State Air Carrier wishing to terminate, suspend or reduce air service under paragraph (a) shall file a notice of such proposed reduction in service at least 90 days prior to such service reduction, in accordance with the procedures specified in §§ 323.4, 323.6, and 323.7 of this chapter.

(c) The notice shall be served on the President and the designated Authorities of the Freely Associated State concerned, in addition to the persons specified in § 323.7.

(d) The procedures specified in §§ 323.9–323.18, to the extent applicable to 90-day notices filed by certificated air carriers, shall also be applicable to notices of terminations, suspensions or reductions in service filed under this section.

§ 272.8 Obligation to continue service.

(a) If the Board finds that a proposed termination, suspension, or reduction in service by an air carrier or Freely Associated State Air Carrier will, or may, reduce service to an eligible Freely Associated State point below the level of essential air transportation to such point, whether or not the Board has previously determined the level of essential air transportation to such point, the Board may direct the air carrier or Freely Associated State Air Carrier concerned to maintain service to such point at a level the Board determines will ensure essential air transportation to such point, pending the commencement of alternative service as required to maintain the level of essential air service previously, or thereafter, determined by the Board.

(b) During any period the Board requires an air carrier or Freely Associated State Air Carrier to maintain a level of service proposed to be terminated, suspended or reduced, following the filing of a 90 day notice in accordance with § 272.7, the Board will provide for the payment of compensation to such carrier for any losses incurred by that carrier as a result of such required continuation of service in accordance with the procedures set forth in Part 324 of this chapter. If the carrier is already receiving compensation pursuant to § 272.9 of this part, the Board will continue to direct payment of such compensation during any period the carrier is required to maintain service. Such payments shall be made by the Department of State from funds appropriated for this purpose.

(c) The Board will review its order from time to time and will revise the level of required service as necessary to maintain only the level of essential air transportation determined by the Board for that point, considering all other service to such point in accordance with § 272.6(a)(3).

(d) During the period any such air carrier or Freely Associated State Air Carrier is required to maintain service under this section, the Board will make every effort to obtain alternative service, with compensation if necessary, as required to maintain essential air transportation to such point.

§ 272.9 Selection of a carrier to provide essential air transportation and payment of compensation.

(a) If the Board finds that essential air transportation will not be maintained to an eligible Freely Associated State point, the Board shall invite applications to provide the service required to maintain essential air transportation to such point.

(b) If the Board determines that essential air transportation will not be provided to such point in the absence of the payment of subsidy compensation to a carrier or carriers, the Board shall determine the compensation necessary, considering all other service to such point in accordance with § 272.6 (a)(3), to maintain the level of essential air transportation determined by the Board under § 272.5, and the times and manner of the payment of such compensation.

(c) The compensation determined by the Board to be necessary to maintain essential air transportation to such point shall be paid by the Department of State out of funds appropriated for that purpose, to the carrier or carriers selected by the Board.

(d) The Board shall continue to specify compensation to be paid to a carrier or carriers under this section only as long as the Board determines that essential air transportation will not be provided to the Freely Associated State in the absence of the payment of such compensation.

(e) Except as permitted in paragraph (f) of this section, the Board shall select a U.S. air carrier or carriers to provide essential air transportation for compensation.

(f) The Board may select a Freely Associated State Air Carrier, holding a foreign air carrier permit issued in accordance with § 211.6 of this chapter, to provide essential air transportation for compensation, only if—

(1) No U.S. air carrier is available to provide the required essential air transportation; or

(2) The compensation necessary for the provision of the required essential air transportation would be substantially less than the compensation necessary if such essential air transportation were to be provided by a U.S. air carrier.

(g) Any order of the Board selecting a Freely Associated State Air Carrier to provide such essential air transportation shall be submitted to the President of the United States not less than 10 days prior to its effective date and shall be subject to stay or disapproval by the President.

(h) Among the criteria that will be considered by the Board in its determination of the carrier or carriers to be selected to perform the required essential air transportation are:

(1) The desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the Freely Associated States concerned;

(2) The experience of the applicant in providing scheduled air service in the vicinity of the Freely Associated States for which essential air transportation is proposed to be provided;

(3) The amount of compensation that will be required to provide the proposed essential air transportation;

(4) The impact of the proposed service on service provided to other Freely Associated State points; and

(5) The views of the Governments of the Freely Associated States concerned.

(i) The Board may from time to time, on its own motion, or upon application of any carrier or government, review and change its selection of a carrier to provide essential air transportation, or its determination as to the compensation necessary to provide such essential air transportation.

(j) All applications or other documents filed or issued in proceedings under this section shall be served upon the President of the Freely Associated State concerned and the Authorities designated by that Government(s) in accordance with Article II, paragraph 10, of the Federal Programs and Services Agreement supplemental to the Compact of Free Association, and such Government shall be a party to any such proceeding. In reaching its determination, the Board will carefully consider any views of such Government that have been submitted.

§ 272.10 Conditions applicable to carriers serving a subsidized market.

(a) The Board may, after providing an opportunity for comment by the carrier or carriers affected, impose service, fare or rate conditions on any U.S., Freely Associated State, foreign air carrier, or foreign carrier by air as a precondition to the payment of compensation necessary to maintain essential air transportation, whether or not the affected carrier is itself receiving subsidy compensation in the market, if it finds that:

(1) Essential air transportation in a Freely Associated State market or markets will not be provided in the absence of the payment of compensation;

(2) Specified service, rate or fare conditions are or will be necessary or desirable to minimize the required subsidy compensation; and

(3) The imposition of such conditions will not unduly impair the service provided in the market.

(b) To the extent the carrier or carriers upon whom the conditions are imposed pursuant to paragraph (a) of this section do not hold a certificate, permit, or other authority from the Board that may be amended to effectively implement the specified conditions, the Board may notify the Government(s) of the Freely Associated States concerned that the imposition of such conditions on those carriers by those Governments shall be a precondition to the payment of the subsidy compensation required to maintain essential air transportation in the market in question.

(c) The Board may withhold or suspend its provision for the payment of subsidy compensation required to maintain essential air transportation unless and until the Freely Associated State(s) concerned take the necessary action to impose the specified conditions on the carriers referred to in paragraph (b) of this section, and those carriers have complied with the specified conditions.

(d) Any order of the Board imposing conditions, or requiring the imposition of conditions, pursuant to this paragraph shall be submitted to the President for review not less than 10 days prior to its effective date, and shall be subject to stay or disapproval by the President.

§ 272.11 Effective date of provisions.

The provisions of this part shall become effective on the date of the effectiveness of the Compact of Free Association and Article IX of the Federal Programs and Services Agreement.

§ 272.12 Termination.

These provisions shall terminate on October 24, 1988, unless the program for the guarantee of essential air transportation to the Federated States of Micronesia and the Marshall Islands is specifically extended by Congress.

PART 302—[AMENDED]

3. Part 302, *Rules of Practice in Board Proceedings*, would be amended as follows:

A. A new paragraph (g) would be added to § 302.8, *Service of documents*, to read:

§ 302.8 Service of documents.

* * * * *

(g) *Freely Associated State Proceedings.* In any proceeding directly involving air transportation to the Federated States of Micronesia, the Marshall Islands, or Palau, the Board and any party or participant in the proceeding shall serve all documents on the President and the designated Authorities of the Government(s) involved. This requirement shall apply to all proceedings where service is otherwise required, and shall be in addition to any other service required by this chapter.

B. A new sentence would be added to the end of § 302.9 *Parties*, so that as revised § 302.9 would read:

§ 302.9 Parties.

The term "party" wherever used in this part shall include any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and any trustee, receiver, assignee or legal successor thereof, and shall include the Bureaus of the Board in any proceeding. In any proceeding directly involving air transportation to the Federated States of Mirconesia, the Marshall Islands, or Palau, these Governments or their designated Authorities shall be a party.

C. A new sentence would be added at the end of paragraph (c) *Additional service*, of Subpart Q, § 302.1705 *Service of documents*, so that as revised (c) would read:

§ 302.1705 Service of documents.

* * * * *

(c) *Additional service.* The Board may, in its discretion, order additional service upon such persons as the facts of the situation warrant. Where only notices are required, parties are encouraged to serve copies of their actual pleadings where feasible. In any proceeding directly involving air transportation to the Federated States of Micronesia, the Marshall Islands, or Palau, the Board and any party or participant in the proceeding shall serve all documents on the President and the designated Authorities of the Government(s) involved.

(Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85-726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91-90 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-33848 Filed 12-31-84; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 241

Uniform System of Accounts and Reports for Large Certificated Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Notice of OMB action on information collection requirements; notice of intent.

SUMMARY: As a result of reviews performed under the authority of the Paperwork Reduction Act of 1980, the Office of Management and Budget

(OMB) has directed the CAB to develop notices of proposed rulemaking to solicit comments on the data collection requirements contained in the CAB Form 41 "Report of Financial and Operating Statistics for Large Certificated Air Carriers" and the Passenger Origin-Destination Survey. OMB has granted continued approval of the current collection of information requirements in the Form 41 report and the Survey for a limited time.

FOR FURTHER INFORMATION CONTACT: Robin A. Caldwell, Chief, Information Management Division or Jack Calloway, Chief, Data Requirements Section, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5922 of (202) 673–6042, respectively. The new addresses after the move to the Department of Transportation on January 5, 1985, will be Robin A. Caldwell, Director, Office of Aviation Information Management, DAI–1, or Jack Calloway, Chief, Data Requirements and Public Reports Division, DAI–10, Room 4125, Research and Special Programs, Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–9058 or (202) 426–7372, respectively.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. 3507) establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. In 5 CFR 1320.14 the Office of Management and Budget (OMB) prescribes procedures for its review of requests to extend approval of collections of information that were previously approved by OMB after publication in the **Federal Register** as final rules.

In accordance with an agreed-upon schedule, the Board submitted to OMB a request for extension of clearance approval for the collection of information contained in CAB Form 41 "Report of Financial and Operating Statistics for Large Certificated Air Carriers" and the Passenger Origin-Destination Survey. Reporting requirements for these data collections are set forth in 14 CFR Part 241. Instructions for submitting Survey data are also included in two instruction manuals *Instructions to Air Carriers for Collecting and Reporting Passenger Origin-Destination Survey Statistics* and *Instructions to Air Carriers for Collecting and Reporting Passenger Origin-Destination Survey Statistics—Special Edition for Carriers Reporting for the First Time on or after October 1, 1979.*

In its review of the Form 41 report and the Survey data collections, OMB has invoked its authority under the Paperwork Reduction Act of 1980, and directed the Board to issue a "Notice of Intent" within 60 days. That notice would inform the public that OMB is requiring the issuance of notices of proposed rulemaking to solicit comments on changes in these information collections. The 60-day period began on October 31, 1984, the date the Board was notified. We anticipate that the Department of Transportation will issue the notices of proposed rulemaking within a reasonable time after it assumes the CAB's data collection authority on January 1, 1985.

Form 41 Report of Financial and Operating Statistics for Large Certificated Air Carriers

OMB stated that the Form 41 "Report of Financial and Operating Statistics for Large Certificated Air Carriers" duplicates other government collections and is overly burdensome and unwarranted in light of the Airline Deregulation Act of 1978. If further stated that the continuation of uniform, detailed financial and operating reporting of domestic air transportation appears to be contrary to the Administration's commitment to airline deregulation. It requested that the notice of proposed rulemaking accommodate a wide range of alternatives; including elimination of all requirements. In addition, it directed that the notice of proposed rulemaking request comments on the need for, and frequency of, the collection in light of the information collection requirements imposed on the airlines by other governmental agencies such as the Securities and Exchange Commission. Finally, it directed that the notice of proposed rulemaking request specific comments from other government agencies that presently use Form 41.

Passenger Origin-Destination Survey

OMB directed that the notice of proposed rulemaking propose eliminating the ten percent sampling requirement contained in § 19.7 of Part 241 (14 CFR 241) and substitute in its place a requirement that the collection involve a statistically valid sample. In addition, it directed the Board to request comments on the size of that sample, and invite the public to propose alternative methods of administering the statutory data collection requirements contained in the Civil Aeronautics Board Sunset Act of 1984.

List of Subjects in 14 CFR Part 241

Air carriers, Reporting and recordkeeping requirements, Uniform system of accounts.

Dated: December 26, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–34013 Filed 12–31–84; 8:45 am]

BILLING CODE 6320–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 31 and 190

Regulation of Certain Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing elsewhere in this **Federal Register** a notice announcing the adoption of several technical and conforming amendments to its interim final rules governing the offer and sale to the public of certain leverage contracts which will permit the offer and sale to the public of short leverage contracts on essentially the same basis as long leverage contracts. The Commission is hereby announcing the proposal of certain substantive amendments to the interim final rules, consisting of a proposed definition of a proprietary leverage account for certain purposes, a proposed amendment to the minimum financial requirement for a leverage transaction merchant ("LTM"), a proposed additional element of an LTM's repurchase/resale requirement, proposed amendments to an LTM's disclosure requirements, and two proposed new rules with respect to leverage transactions. The Commission is also requesting comment as to the appropriate carrying charge for leverage contracts involving foreign currency and with respect to the order of liquidation of leverage contracts pursuant to Rule 31.18(b).

The proposed definition of a proprietary leverage account essentially would require an LTM to treat and deal with the funds of an owner of such an account separately from the funds of other leverage customers. An LTM would have to cover leverage contracts entered into with proprietary persons to the same extent as other leverage contracts, but the cover for customer and proprietary leverage contracts

would have to be separately maintained and identified.

The proposed amendment to the minimum financial requirement for an LTM would increase the requirement by an amount equal to 2½ percent of the market value of the amount of physical commodities subject to short leverage contracts entered into by the LTM which are covered. The Commission is proposing this amendment to compensate for the fact that an LTM will be unable to cover its obligations to leverage customers under short leverage contracts by means of physical commodities, as it is required to do with respect to 25 percent of its obligations to leverage coustomers under long leverage contracts.

The Commission is proposing as an additional element of an LTM's repurchase/resale requirement a provision which would require that at any time an LTM is offering to enter into or entering into a new leverage contract, either long or short, involving a particular leverage commodity, the LTM be required to offfer to repurchase any previously-entered long leverage contracts *and* to resell any previously-entered short leverage contracts involving the same leverage commodity.

The proposed amendment to an LTM's disclosure requirements would modify the current format of the customer Confirmation Statement for a long leverage contract, specify the format required to be used for the customer Confirmation Statement for a short leverage contract, and replace the Illustrative Transaction currently required to be included in the Disclosure Document for a long leverage contract with a filled-in version of the proposed customer Confirmation Statements for long and short leverage contracts.

The first new rule being proposed would require an LTM to use the same set of bid and ask prices for both a long and a short leverage contract involving the same leverage commodity, and also would require an LTM to apply the same carrying charge rate on a short leverage contract that it applies to a long leverage contract. The Commission believes that such a rule is consistent with the technical and conforming amendments already adopted to accomodate short leverage contracts in that it will provide for essentially equivalent treatment of long and short leverage contracts with respect to pricing.

The second proposed new rule would require each LTM to file a quarterly report containing information with respect to every leverage contract which was closed out during the quarter, whether by repurchase, resale, liquidation or delivery, including the profit or loss to the leverage coustomer on any contract which is repurchased, resold or liquidated. The Commission believes that such information, which would be required to be submitted in both machine-readable and hard copy form, would provide the Commission with data for use in determining whether additional regulations are necessary to ensure the financial solvency of leverage transactions and to prevent manipulation and fraud, particularly with respect to whether any further disclosure requirements are necessary to assure proper evaluation of leverage contracts by prospective leverage customers.

DATE: Comments must be submitted on or before February 1, 1985.

ADDRESS: Comments should be sent to the Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Office of the Secretariat.

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–9880; Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–8955; or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–6990.

SUPPLEMENTARY INFORMATION:

I. Background

On January 16, 1984 the Commission adopted interim final rules which established a comprehensive regulatory framework to govern the offer and sale to the public of leverage contracts for the purchase of specified leverage commodities. *See* 49 FR 5498 (February 13, 1984) for the complete text of the rules, most of which are contained in 17 CFR Part 31 (1984). By their terms, those rules as originally promulgated applied only to leverage contracts which are initiated by the leverage customer purchasing a contract from a leverage transaction merchant ("LTM"), or a "long" leverage contract. The definition of such a contract requires that delivery of the leverage commodity subject to the contract be made by the LTM to the leverage customer after satisfaction of the balance due on the contract by the leverage customer. 17 CFR 31.4(w)(5) (1984).

Athough the Commission, when it originally adopted the interim final rules, did not include short leverage contracts within information of the term "leverage contract" (49 FR 5498, 5528), the Commission also took note of the fact that several commenters on the proposed leverage contract definition had raised the issue of whether short leverage transactions should also be included in the definition and thereby subject to the Part 31 rules. The Commission indicated that it would consider the issue further and would solicit additional public comment as to whether short leverage transactions were contemplated under section 19 of the Commodity Exchange Act, 7 U.S.C. 23 (1982), and if so, what additional customer protections or other rule amendments would be necessary with respect to such transactions. Indeed, that was one of the reasons the Commission deemed the leverage rules to be of an interim nature. 49 FR 5498.

Shortly after the Commission published the interim final rules to govern certain leverage transactions, the Commission published a notice of proposed rulemaking in which it solicited comments concerning whether, and if so how, the interim final rules should be amended to encompass short leverage transactions. 49 FR 8624 March 8, 1984). The proposed rulemaking notice contained a series of questions upon which specific comment was requested. Those questions included the following:

> Should the Commission require the ask price of a short leverage contract to be greater than or equal to the bid price of a long leverage contract for the same leverage commodity?
>
> Should the carrying charges for long and short leverage contracts be required to be identical?
>
> Should there be any different financial requirements for an LTM which also engages in short leverage transactions, such as a higher minimum dollar amount of adjusted net capital, or additional capital charges applicable to short leverage transactions?
>
> How would the illustrative example of a leverage transaction required by the interim rules to be contained in the Disclosure Document furnished to customers and the break-even price calculation required in the Confirmation Statement furnished to customers be affected by short leverage transactions?

The Commission received ten written comments on that proposed rulemaking notice.

The Commission held a public meeting on June 12, 1984 to discuss issues relating to short leverage transactions. At the conclusion of that meeting, after having reviewed the written comments received in response

to its notice of proposed rulemaking and having been advised by its staff, the Commission determined to amend its interim final leverage rules to encompass short leverage transactions of the term of ten years or longer. The Commission instructed its staff to develop appropriate technical and conforming changes to be made effective without additional notice and comment, and those appear in a separate notice elsewhere in this Federal Register. The Commission further directed its staff to draft certain proposed substantive new rules and rule amendments, some of which would affect long leverage transactions as well as short leverage transactions, and those are contained in this notice and are discussed more fully below.

II. Customer/Proprietary Account Distinction

When the Commission originally adopted the interim final leverage rules, it did not adopt a proprietary account definition with respect to leverage contracts. The Commission also stated, however, that under Part 190, the Commission's bankruptcy rules, claims of insiders such as principals or associated persons would be subordinate to customer claims in the case of a bankruptcy of an LTM. 49 FR 5498, 5516 (February 13, 1984). The Commission has reconsidered this issue, and has also reviewed the Disclosure Documents of the three applicants for registration as an LTM, two of which indicate that principals of the LTM have entered into leverage contracts for their own account with the LTM. Upon that reconsideration and review, the Commission has determined to propose a distinction between customer and proprietary accounts for purposes of Rule 31.12, which requires the segregation of leverage customer funds from an LTM's other funds. The Commission believes that this would help to insure appropriate treatment of leverage customers in the case of the bankruptcy of an LTM, and make the treatment of leverage customer funds more consistent with the treatment of customer funds by futures commission merchants.[1]

The proposed proprietary leverage account definition would be contained in Rule 31.4(e) and would parallel the proprietary account definition for futures commission merchants contained in Rule 1.3(y) (17 CFR 1.3(y) (1984)). Essentially, a proprietary leverage account would be an account which is at least ten percent owned by a principal, an associated person or a manager of the LTM, or by someone involved with handling leverage customer funds or recordkeeping related to such funds.

The Commission's intent in proposing the customer/proprietary account distinction is to make sure that the funds of the owners of proprietary leverage accounts are not commingled with the funds of other leverage customers, and that the cover for an LTM's obligations to leverage customers is held separate from and can be separately identified from cover for leverage contracts of proprietary leverage account owners. The customer/proprietary account distinction, therefore, would not apply to Rule 31.8 regarding cover, and an LTM would have to cover leverage contracts held by owners of proprietary leverage accounts to the same extent as leverage contracts held by other customers. Such cover for proprietary leverage accounts, however, would have to be maintained in an account with a futures commission merchant which is separate from the account containing cover for leverage customers, in the case of futures and exchange-traded options used as cover. Physical cover for leverage contracts held by leverage customers would also have to be separately identifiable from physical cover for leverage contracts held by owners of proprietary leverage accounts.[2] This will insure that all leverage contracts entered into by an LTM are properly covered so as to enhance the LTM's financial condition and at the same time further assure that if an LTM becomes bankrupt, leverage customers receive priority treatment over the owners of proprietary leverage accounts.

The Commission is also proposing to make the customer/proprietary account distinction applicable to Rule 31.11, which sets forth an LTM's disclosure requirements, except for paragraph (k) of Rule 31.11, which requires an LTM to send a confirmation statement to a leverage customer within 24 hours after entry into a leverage contract. An LTM, therefore, would not have to provide the owner of a proprietary leverage account with a Disclosure Document. (An LTM would be free to do so, however.) The owner of a proprietary account, such as an associated person or a principal of an LTM, should be familiar with the information contained in such a document based upon the person's affiliation with the LTM. An LTM would be required, however, to send a confirmation statement to an owner of a proprietary account who enters into a leverage contract just as it does for any other customer.

The Commission is further proposing to require than LTM indicate on the new quarterly report whether a particular leverage contract was held by a leverage customer or by a proprietary person. *See* proposed Rule 31.26.

The customer/proprietary account distinction would not apply to the remainder of the leverage rules. For example, under Rule 31.9(b)(9), an undermargined proprietary leverage account would be subject to the same safety factor change (or "haircut") as any other leverage account.[3] The repurchase and resale rule (Rule 31.10), the margin call rule (Rule 31.18) and the limited right to rescind rule (Rule 31.23) would be applicable, as would the rules regarding unlawful representations and prohibiting guarantees against loss (Rules 31.19 and 31.20). An LTM would have to maintain the same records regarding a leverage contract with, and make the same reports to, the owner of a proprietary account (Rules 31.14, 31.15 and 31.17). An LTM's monthly reporting requirement under Rule 31.16 would make no distinction between customer and proprietary leverage accounts, and all leverage contracts entered into by the LTM would be reported together. The Commission may, however, make a special call for information to compare proprietary leverage accounts with leverage customer accounts (*see* Rule 31.14(a)), and Commission auditors may also examine an LTM's records to make such a comparison. If the Commission adopts the customer/proprietary account distinction as proposed, therefore, most of the LTM's operations would be unchanged with respect to leverage contracts entered into by persons who would be deemed proprietary, except to the extent changes are necessary to ensure that funds and cover for leverage contracts of leverage customers are segregated from funds and cover for leverage contracts of proprietary leverage account owners.

[1] The Commission is also proposing a conforming change to the definition of "non-public customer" under the Bankruptcy Rules to include the owner of a proprietary leverage account. *See* proposed amendment to Rule 190.01(bb).

[2] If the Commission adopts the customer/proprietary account distinction, it may determine to make certain minor, technical changes to Form 2-FR, the LTM financial reporting form, to reflect the distinction, particularly with respect to the cover schedules. *See also* Rule 31.8(c).

[3] The owner of a proprietary leverage account should also be subject to the same margine requirements, and the same bid and ask prices, as any other customer.

III. Minimum Financial Requirement

The Commission is proposing an amendment to the minimum financial requirement for an LTM (Rule 31.9(a), 17 CFR 31.9(a) (1984)) which would increase the requirement by an amount equal to 2½ percent of the market value of the amount of physical commodities subject to short leverage contracts entered into by the LTM which are covered. The Commission is proposing this amendment to compensate for the fact that an LTM will be unable to cover its obligations to leverage customers under short leverage contracts by means of physical commodities, as it is required to do with respect to 25 percent of its obligations to leverage customers under long leverage contracts.

The Commission adopted the 25 percent floor with respect to the amount of cover for long leverage contracts that must consist of physical commodities for several reasons. The Commission was concerned that there be ready availability of the commodity to satisfy demands for delivery and that cover adequately reflect price changes in commercial or retail channels, and the Commission also belived that it was important to prevent the mere re-packaging of futures contracts. 49 FR 5498, 5514 (February 13, 1984). With respect to short leverage contracts, the Commission recognizes that it is not possible for an LTM to cover its obligations on short leverage contracts by means of a physical. The Commission believes, however, that cover is crucial to assuring the financial solvency of leverage transactions and the financial integrity of LTMs, upon whom leverage customers are solely dependent for performance on their contracts, and that it is therefore important that cover adequately reflect price changes in commercial or retail channels. Since futures or exchange-traded options will not serve that function as well as physicals, the Commission believes that an increased minimum financial requirement for an LTM which enters into a short leverage contract is necessary.

The Commission arrived at the proposed additional requirement of 2½ percent of the market value of the amount of physical commodities subject to short leverage contracts entered into and covered by the LTM as follows. When an LTM enters into a short leverage contract, the LTM is committed to take delivery of the commodity subject to the leverage contract at the price at which the contract is entered into, should the leverage customer elect to make delivery. Essentially, the LTM has a commitment to take delivery in the future, and the safety factor charge ("haircut") which a futures commission merchant must apply to fixed-price commitments which are covered by an open futures contract or commodity option is 10 percent of the market value. *See* 17 CFR 1.17(c)(5)(ii)(D) (1984). Applying 10 percent against the 25 percent of cover for short leverage contracts which will be in futures or exchange-traded options rather than in physicals, as is the case for long leverage contracts, results in the 2½ percent proposed additional adjusted net capital requirement.

The Commission wishes to note that the proposed additional 2½ percent adjusted net capital requirement applies to covered short leverage contracts. As is the case with long leverage contracts, an LTM must cover 90 percent of its total obligations to leverage customers under short leverage contracts and, accordingly, up to 10 percent of such obligations could be uncovered. For any uncovered short leverage contracts, the LTM's minimum adjusted net capital requirement is increased by an amount equal to 20 percent of the market value of the physical commodities subject to such uncovered leverage contracts under existing Rule 31.9(a). 17 CFR 31.9(a) (1984). This would be unchanged by the proposed amendment, and the proposed amendment would also not be cumulative for uncovered short leverage contracts, *i.e.*, the appropriate addition to the LTM's minimum adjusted net capital requirement for its uncovered obligations would remain at 20 percent, and would not increase to 22½ percent.

The effect of the proposed amendment can be illustrated by assuming that an LTM has entered into $5 million worth of long leverage contracts, with $100,000 of that amount uncovered, and $1,050,000 worth of short leverage contracts, with $50,000 of that amount uncovered. Such an LTM's minimum adjusted net capital requirement would be $2,500,000, plus $30,000 [20 percent of the uncovered amount of $150,000], plus $25,000 [2½ percent of the $1,000,000 covered short leverage contracts], for a total of $2,555,000.[4]

IV. Repurchase/Resale of Leverage Contracts

In the separate release published elsewhere in this **Federal Register** announcing the adoption of several technical and conforming amendments to the interim final leverage rules, the Commission announced an amendment to Rule 31.10 to encompass short leverage contracts. That amendment makes clear that when an LTM is offering to enter into or entering into new short leverage contracts in a particular leverage commodity, the LTM must at that time also be offering to resell to its leverage customers any previously-entered short leverage contract involving the same leverage commodity. That amendment conformed an LTM's requirement for short leverage contracts with the LTM's existing requirement for long leverage contracts, which prohibited an LTM from offering to enter into or entering into new long leverage contracts in a particular leverage commodity unless the LTM was simultaneously offering to repurchase from its leverage customers any previously-entered long leverage contracts involving the same leverage commodity.

The Commission is now proposing an additional element to the repurchase/resale requirement. Rule 31.10 as amended would provide that at any time an LTM is offering to enter into or entering into a new leverage contract, either long or short, involving a particular leverage commodity, the LTM would be required to offer to repurchase any previously-entered long leverage contracts *and* to resell any previously-entered short leverage contracts involving the same leverage commodity. The Commission believes that this proposal is consistent with proposed new Rule 31.25 regarding the use of the same bid and ask prices for long and short leverage contracts involving the same leverage commodity, which is discussed more fully below. One reason the Commission is proposing Rule 31.25 is to discipline an LTM's bid-ask spread, a rationale supported by each of the commenters on the March 8, 1984 proposed rulemaking notice who addressed this concept. The Commission believes that this discipline could be undercut seriously if an LTM were permitted, for example, to enter into a new short leverage contract at its current bid price without at the same time being required to offer to repurchase an existing long leverage contract involving the same leverage commodity at the same bid price. An LTM would, however, continue to be able to enter into new long leverage contracts without also offering to enter into new short leverage contracts involving the same leverage commodity, and vice versa.

[4] If the proposed amendment to § 31.9(a) is adopted, appropriate changes will be made to the Statement of the Computation of the Minimum Capital Requirements on Form 2-FR to reflect the amendment.

V. Disclosure and Customer Confirmation Statement

The Commission is also proposing certain amendments to Rule 31.11 with respect to an LTM's disclosure requirements. These amendments are intended further to incorporate rules for short leverage tarnsactions into Part 31 of the Commission's leverage regulations. For purposes of clarity and consistency with the proposed amendments, the Commission is also proposing revisions in its disclosure requirements regarding long leverage transactions. Specifically, amendments are being proposed to paragraphs (a)(1), (a)(3), (k)(1) and (k)(2) of Rule 31.11.

The Commission is proposing two significant changes to the Customer Confirmation Statement for a long leverage contract. First, the Commission is proposing to amend Rule 31.11(k)(1)(ii) by including a new paragraph (J) which would require that the equity in the leverage customer's account at the time the transaction occurs be provided on the Confirmation Statement. In addition, paragraph (L) would be amended to delete the requirement that the Confirmation Statement for a long leverage transaction contain a break-even calculation. Instead, the LTM would be required to furnish on the Confirmation Statement a formula which the customer could use independently to calculate an estimate of the break-even value of the log leverage transaction.

Minor conforming amendments are also being proposed in the form and order of the required information contained in the Confirmation Statement. The Commission notes that the Confirmation Statement for a long leverage transaction contains information similar to that currently required in the rules, but in a slightly different format. The Commission believes the proposed Confirmation Statement format more accurately reflects the information needed to estimate a leverage contract's break-even price over the period a leverage customer anticipates holding the leverage contract.

The Commission is proposing a similar Confirmation Statement format for a short leverage contract. Accordingly, the Commission is proposing that new paragraphs (k)(2)(ii)(A) through (S) be adopted, which will apply to a short leverage contract and which are modeled on paragraphs (k)(1)(ii)(A)–(T), applicable to a long leverage contract. The Commission notes that information concerning the total unpaid balance (*see* paragraph (k)(1)(ii)(F) applicable to a long leverage contract) is not applicable to a short leverage contract and thus is not being required on the short leverage contract Confirmation Statement.

The Commission is also proposing to amend Rule 31.11(a)(3) to require that filled-in versions of the Confirmation Statement for a long and a short leverage transaction reflecting a single leverage commodity purchase and sale be reprinted in the Disclosure Document. This would replace the Illustrative Transaction and break-even calculation currently required. The proposed formats for the Confirmation Statement for long and short leverage transactions appear at the end of this **Federal Register** release. The Commission wishes to note that an LTM, if it prefers, may begin to use the proposed Confirmation Statements for long and short leverage transactions at such time that it amends its Disclosure Document, although the modification to the forms for such leverage contracts will not be mandatory until final rules are adopted.

The proposed revisions to Rule 31.11 (a)(3), (k)(1) and (k)(2) necessitate certain conforming amendments to Rule 31.11(a)(1). Proposed amendments to Rule 31.11(a)(1) would delete reference in the bold-faced risk disclosure statement to the required Illustrative Transaction which includes a break-even calculation. New language would be inserted to require that the LTM provide a formula for the customer to calculate an estimate of the break-even value of the leverage transaction which appears on the filled-in Confirmation Statement in the Disclosure Document.

VI. Bid and Ask Prices and Carrying Charges

The first new rule being proposed by the Commission, proposed Rule 31.25, would require an LTM to use only one set of bid and ask prices for contracts involving the same leverage commodity, whether a long or short leverage contract is involved. Although the Commission recognizes, and leverage customers and prospective leverage customers must be informed, that an LTM has complete discretion in setting its bid and ask prices, the Commission believes that it is essential that an LTM not be allowed, for example, to enter into a short leverage contract at a different price from that which it is willing to repurchase a long leverage contract involving the same leverage commodity. Without such a requirement, an LTM would be free to use different prices for long and short leverage transactions which favored the LTM in both cases, and the Commission believes such a situation would be susceptible to manipulation and fraud. The Commission notes that four commenters, including the three applicants for registration as LTMs, addressed this issue in response to the March 8, 1984 proposed rulemaking notice. Each of those commenters supported a requirement that the same set of bid and ask prices be used for long and short leverage contracts involving the same leverage commodity, claiming that this would serve to discipline an LTM's bid-ask spread.

Paragraph (b) of proposed Rule 31.25 would require that an LTM apply the same carrying charge rate on a short leverage contract that it applies to a long leverage contract. The Commission believes that the carrying charges associated with a leverage contract are a critical component of the overall costs of a leverage contract and that it is just as important to require equal treatment of leverage customers with long and short leverage contracts with respect to carrying charges as it is with respect to bid and ask prices in order to prevent manipulation and fraud and ensure financial integrity.

Proposed Rule 31.25(b) provides that in the case of a long leverage contract, an LTM can assess carrying charges only on the upaid balance of the contract, which is the total initial value of the contract, using the ask price when the contract was executed, minus any margin deposits made in connection with the contract. (Mathematically, the same result is achieved if the LTM assesses carrying charges on the total initial value of the contract and the leverage customer is credited with an amount based on the same carrying charge rate multiplied by any margin deposits made in connection with the contract.) In the case of a short leverage contract, proposed Rule 31.25(b) would require that an LTM credit a leverage customer holding an open short leverage contract with carrying charges computed on the total initial value of the contract, using the bid price when the contract was executed, plus any margin deposits made by the leverage customer in connection with the contract. The Commission understands that those applicants for registration as LTMs which claim to be engaged currently in entering into short leverage transactions compute carrying charges credited to the short leverage customer in the same manner as set forth in proposed Rule 31.25(b).

The effect of the proposed new rule can be illustrated by assuming that an LTM has a bid-ask spread for 100 ounces of gold bullion of $390/$400 per ounce, an initial margin rate of 20

percent, and a carrying charge rate of 10 percent per year. If the LTM enters into a long and a short contract on the same day and there are no margin deposits other than the initial margin for one year, and no changes are made in the variable carrying charge rate during the year, the following results will occur. The leverage customer entering into the long leverage contract, which has a total initial value of $40,000, pays $8,000 in initial margin and is assessed $3,200 in carrying charges during the first year. The leverage customer who entered into the short leverage contract, which has a total initial value of $39,000, pays $7,800 in initial margin and is credited with $4,680 in carrying charges during the first year. Any additional margin deposits made in connection with a long leverage contract reduce the unpaid balance on which carrying charges are assessed, while any additional margin deposits made in connection with a short leverage contract increase the amount on which carrying charges are credited. Margin levels for long and short contracts are not required to be identical. Transaction costs such as initial commissions do not affect these computations.

Only one commenter addressed directly the question posed in the March 8, 1984 proposed rulemaking notice as to whether the carrying charges for long and short leverage contracts should be required to be identical, and that commenter stated that carrying charges must be set at identical levels for short and long contracts. Another commenter stated that the Commission should not require that carrying charges be paid for short leverage contracts.

VII. Quarterly Reporting Requirement

The Commission originally proposed a Rule 31.11(a)(5) which would have required an LTM to disclose the net gain or loss for all customers on leverage contracts closed out or liquidated for the preceding year and the preceding three years. The Commission determined not to adopt such a rule based in part upon a recognition of the difficulty of reconstructing prior trading data and the fact that trading was directed by the individual customer and not the LTM.[5] Prospective application of such a reporting requirement under proposed new Rule 31.26 should alleviate the first concern and the second concern does not obviate the usefulness of the data in assessing proper disclosure and the bases under which leverage should be expanded. In particular, such a program could provide the Commission with data to be used in considering whether any further requirements are necessary.

The information which would be required in the quarterly report is set forth in proposed Rule 31.26(a). Every leverage contract which was closed out during the quarter, whether by repurchase, resale, liquidation or settlement by delivery, must be listed.[6] The data required with respect to each such contract includes identifying information such as the leverage commodity and contract involved, whether the contract was long or short, and the method of close-out. The dates the contract was entered into and closed out must be included, as well as the relevant prices at each date. The Commission also proposes that the leverage customer account identification number, whether the customer had a commercial or noncommercial leverage account, and whether the customer was the owner or holder of a proprietary leverage account be included.

For any leverage contract which is closed out by repurchase, resale or liquidation, the LTM would also have to report the profit or loss incurred by the leverage customer on the contract.[7] In the case of a long leverage contract, profit or loss shall be determined by subtracting, from the total value of the contract based on the leverage transaction merchant's bid price at the time of repurchase or liquidation, the total value of the contract based on the ask price at which the contract was entered into, minus any amounts paid or owed by the leverage customer to the leverage transaction merchant, including initial, carrying and termination charges, plus any amounts paid or credited by the leverage transaction merchant to the leverage customer, in connection with the leverage contract. In the case of a short leverage contract, profit or loss shall be determined by subtracting, from the total value of the contract based on the bid price at which the contract was entered into, the total value of the contract based on the leverage transaction merchant's ask price at the time of resale or liquidation, minus any amounts paid or owed by the leverage customer to the leverage transaction merchant, including initial, carrying and termination charges, plus any amounts paid or credited by the leverage transaction merchant to the leverage customer, in connection with the leverage contract. A positive difference will indicate a profit and a negative difference will indicate a loss.

The Commission is proposing to require that the quarterly report be provided in both machine-readable and hard copy form, similar to the reports required to be made by contract markets on reportable option traders. *See* Rule 16.02 (17 CFR 16.02 (1984)). Since there are only three applicants for registration as an LTM, the Commission is not proposing a specific format and coding structure for the report, but is instead proposing a procedure whereby each firm would have to submit a proposed format and coding structure for Commission approval according to a specified timetable. The Commission's automated data processing staff will work with the firms to develop the appropriate format and coding structure.

The Commission is also proposing that the hard copy of the quarterly report be accompanied by a complete and accurate list of all leverage customers who had a leverage contract repurchased, resold, liquidated or settled by delivery during the quarter covered by the report. Such a list would include only such leverage customers, and would not include inactive customers or those who only entered into or rescinded contracts during the quarter. This list would have to be in numeric order by customer account identification number and in addition to including that number, it would contain the leverage customer's name, address and telephone number. The purpose of such a list is so the Commission can verify the data in the quarterly report, which the Commission would expect to do on a spot check basis. Any studies which the Commission would make on the basis of the data submitted on the quarterly report would contain no identifying information with respect to any leverage customer, and the Commission would generally not release

[5] *See* 49 FR 5498, 5507–5508 (February 13, 1984). The Commission also noted at that time that is clearly had authority to adopt such a rule, and that it would monitor closely the appropriateness of the disclosure requirements and make further adjustments as necessary, including requiring performance disclosure.

[6] No information would be required with respect to leverage contacts closed out by rescission. An LTM's monthly report must include the number of leverage contracts rescinded during the month and the Commission requires that a leverage customer can only be assessed actual price losses from the time of entering into the contract until rescission. Rule 31.16(f) (17 CFR 31.16(f) (1984)), which has been redesignated as Rule 31.16(a)(8), and Rule 31.23 (17 CFR 31.23 (1984)).

[7] No such information would be required with respect to leverage contracts settled by delivery, since the ultimate profit or loss to the leverage customer in such case depends on the amount which the leverage customer obtains upon sale of the delivered commodity, or the amount which the leverage customer paid to obtain the commodity in order to make delivery, in commercial or retail channels.

any information with respect to a particular leverage customer.[8]

The Commission is also considering whether to require that the information to be submitted in the quarterly report be furnished beginning as of January 1, 1985.

VIII. Carrying Charges for Leverage Contracts Involving Foreign Currency

The Commission is also requesting comment about the appropriateness of permitting the same type of carrying charges for leverage contracts on foreign currencies as is used for leverage contracts on metals. In particular, while metals holdings do not yield interest, foreign currency deposits in many cases are interest bearing.[9] In the case of a particular foreign currency, carrying charges should reflect the difference between the applicable U.S. interest rate and the corresponding (in maturity and risk) interest rate applicable to the particular foreign currency.

As a result, the Commission believes that leverage customers would be unfairly treated if they were required to pay the LTM a carrying charge on long foreign currency leverage contracts at or about the prevailing U.S. interest rates. By the same token, LTMs could be disadvantaged if they were required to pay to leverage customers holding short foreign currency leverage contracts a carrying charge at or about prevailing U.S. interest rates.[10] However, there is no requirement that leverage contracts on a particular commodity. Further, any possible advantage to customers holding short foreign currency leverage contracts would not necessarily correct the disadvantage to long leverage customers.

In particular, the Commission is requesting comment on whether, and if so why, carrying charges should be permitted on leverage contracts involving foreign currencies. Commenters who believe that such carrying charges should be permitted should also indicate the nature and amount of the carrying charge they deem appropriate and why certain leverage customers would not be disadvantaged by such carrying charges on foreign currencies.

[8] *See* section 8 of the Commodity Exchange Act, as amended, 7 U.S.C. 12 (1982), and Commission Rule 145.5(f) (17 CFR 145.5(f) (1984)).

[9] While foreign currency deposits in U.S. banks do not normally generate interest, foreign currency bank deposits in the countries of origin of such currencies normally are interest bearing. This interest-generation characteristic of foreign currency is reflected in the forward and futures pricing of these currencies.

[10] Proposed Rule 31.25(b) would require an LTM to apply the same carrying charge rate to long and short leverage contracts.

IX. Order of Liquidation of Leverage Contracts Pursuant to Rule 31.18(b)

The Commission also is requesting comment regarding the order in which leverage contracts are liquidated pursuant to Rule 31.18(b). Leverage transaction merchants are required to disclose the order of such liquidations. Rule 31.11(a)(2)(vi); *see also* 49 FR 5498, 5518. In adopting Rule 31.18(b), the Commission believed, and continues to believe, that positions liquidated pursuant to that provision should be those positions giving rise to the liquidation. In this regard, the Commission believes that positions should be liquidated in declining order of loss, beginning with the position reflecting the greatest loss first. However, at least one applicant for registration as an LTM has indicated that it will inform leverage customers and prospective leverage customers that it will liquidate positions pursuant to Rule 31.18(b) on a "last in, first out" basis, that is, the leverage contract most recently purchased would be the first one liquidated. The Commission is therefore considering whether to adopt a rule specifying that positions must be liquidated in declining order of loss, beginning with the position reflecting the greatest loss first, and requests comments on this issue.

X. Related Matters

A. Regulatory Flexibility Act

Adoption of these proposed rule and rule amendments would not appear to affect a substantial number of small firms. There are only three applicants for registration as an LTM, and until the Commission lifts its temporary moratoria on the entry of new firms into the leverage business (17 CFR 31.1 and 31.2 (1984)), it is unlikely that there will be any additional applicants. In addition, in light of the minimum financial requirements for an LTM,[11] the Commission does not believe these proposed rules and rule amendments will have a significant economic impact on a substantial number of firms which could be considered small entities for purposes of the Regulatory Flexibility Act.

Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1168 (5 U.S.C. 605(b) (1982)), the Chairman, on behalf of the Commission, certifies that these proposed rules and rule amendments, if promulgated, will not have a significant economic impact on a substantial number of small entities.

[11] In this context, the Commission has defined "small entity" for purposes of the Regulatory Flexibility Act so as not to include any futures commission merchant registered with the Commission. (47 FR 18618, April 30, 1982). The minimum financial requirements for FCMs, as set forth in Commission Rule 1.17, 17 CFR 1.17 (1984), are significantly lower than those for an LTM.

B. Paperwork Reduction Act

Since any requirement which would be imposed by the proposed amendments to Rule 31.11 and proposed new Rule 31.26 would affect less than ten persons (*i.e.*, only the three applicants for registration as an LTM), the Paperwork Reduction Act does not apply. 44 U.S.C. 3502(4) (1982).

Lists of Subjects

17 CFR Part 31

Consumer protection, Fraud, Reporting and recordkeeping requirements.

17 CFR Part 190

Bankruptcy, Brokers, Commodity futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in sections 6a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982), and pursuant to the authority contained in the Bankruptcy Reform Act of 1978, as amended, 11 U.S.C. 101 *et seq.* (1982), the Commission hereby proposes to amend Chapter I of Title 17 of Code of Federal Regulations as follows:

PART 31—LEVERAGE TRANSACTIONS

1. Section 31.4 is proposed to be amended by revising paragraph (d) and by adding paragraph (e) to read as follows:

§ 31.4 Definitions.

* * * * *

(d) "Leverage customer" means any person who, directly or indirectly, enters into, purchases, sells, or otherwise acquires for value any interest in a leverage contract with, from or to a leverage transaction merchant: *Provided, however,* That an owner or holder of a proprietary leverage account as defined in paragraph (e) of this section shall not be deemed to be a customer within the meaning of § 31.11(a)-(j) and (l), § 31.12 and § 31.26, and such an owner or holder of such a proprietary leverage account shall otherwise be deemed to be a leverage customer within the meaning of all other sections of these rules.

(e) "Proprietary leverage account" means a leverage account carried on the books and records of an individual, a

partnership, corporation or other type association (1) for one of the following persons, or (2) of which ten percent or more is owned by one of the following persons, or an aggregate of ten percent or more of which is owned by more than one of the following persons:

(i) Such individual himself, or such partnership, corporation or association itself;

(ii) In the case of a partnership, a general partner in such partnership;

(iii) In the case of a limited partnership, a limited or special partner in such partnership whose duties include:

(A) The management of the partnership business or any part thereof,

(B) The handling of the trades of leverage customers or of the leverage customer funds of such partnership,

(C) The keeping of records pertaining to the trades of leverage customers or to the leverage customer funds of such partnership, or

(D) The signing or co-signing of checks or drafts on behalf of such partnership;

(iv) In the case of a corporation or association, an officer, director or owner of ten percent or more of the capital stock, of such organization;

(v) An employeee of such individual, partnership, corporation or association whose duties include:

(A) The management of the business of such individual, partnership, corporation or association or any part thereof,

(B) The handling of the trades of leverage customers or of the leverage customer funds of such individual, partnership, corporation or association,

(C) The keeping of records pertaining to the trades of leverage customers or to the leverage customer funds of such individual, partnership, corporation or association, or

(D) The signing or co-signing of checks or drafts on behalf of such individual, partnership, corporation or association;

(vi) A spouse or minor dependent living in the same household of any of the foregoing persons;

(vii) A business affiliate that, directly or indirectly, controls such individual, partnership, corporation or association;

(viii) A business affiliate that, directly or indirectly, is controlled by or is under common control with, such individual, partnership, corporation or association.

* * * * *

2. Section 31.9 is proposed to be amended by revising the introductory text of paragraph (a) to read as follows:

§ 31.9 Minimum financial requirements.

(a) Each leverage transaction merchant must at all times maintain adjusted net capital equal to or in excess of $2,500,000, plus 20 percent of the market value of the amount of physical commodities subject to leverage contracts entered into by the leverage transaction merchant which are uncovered, plus 2½ percent of the market value of the amount of physical commodities subject to short leverage contracts entered into by the leverage transaction merchant which are covered.

* * * * *

3. Section 31.10 is proposed to be revised to read as follows:

§ 31.10 Repurchase and resale of leverage contracts by leverage transaction merchants.

(a) No leverage transaction merchant shall offer to sell or sell a long leverage contract involving a leverage commodity to any leverage customer at any time when such leverage transaction merchant is not offering to repurchase from any of its leverage customers any long leverage contract, and is not offering to resell to any of its leverage customers short leverage contract, involving the same leverage commodity previously sold or purchased by the leverage transaction merchant to or from a leverage customer.

(b) No leverage transaction merchant shall offer to purchase or purchase a short leverage contract involving a leverage commodity from any leverage customer at any time when such leverage transaction merchant is not offering to resell to any of its leverage customers any short leverage contract, and is not offering to repurchase from any of its leverage customers any long leverage contract, involving the same leverage commodity previously purchased or sold by the leverage transaction merchant from or to a leverage customer.

4. Section 31.11 is proposed to be amended by revising the first two paragraphs and the sixth paragraph of the bold-faced statement contained in paragraph (a)(1), paragraph (a)(3), and paragraphs (k)(1)(ii) (E) through (P), by adding paragraphs (k)(1)(ii) (Q) through (T), by revising paragraph (k)(2), and by adding paragraph (k)(2)(ii) to read as follows. The introductory text of (a)(1) is shown for the convenience of the user and remains unchanged.

§ 31.11 Disclosure.

(a) * * *

(1) The following bold-faced risk disclosure statement in at least ten-point type on the first page of the Disclosure Document:

BECAUSE OF THE UNPREDICTABLE NATURE OF THE PRICES OF PRECIOUS AND OTHER METALS AND FOREIGN CURRENCIES, LEVERAGE CONTRACTS INVOLVE A HIGH DEGREE OF RISK AND ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. THE LEVERAGE CUSTOMER SHOULD BE AWARE THAT THE VALUE OF A LEVERAGE CONTRACT ORIGINALLY PURCHASED BY A CUSTOMER ("LONG LEVERAGE CONTRACT") MUST EXCEED THE BREAK-EVEN PRICE BEFORE IT IS POSSIBLE TO REALIZE A PROFIT ON THE CONTACT. SIMILARLY, THE VALUE OF A LEVERAGE CONTRACT ORIGINALLY SOLD BY A LEVERAGE CUSTOMER ("SHORT LEVERAGE CONTRACT") MUST BE LESS THAN THE BREAK-EVEN PRICE BEFORE IT IS POSSIBLE TO REALIZE A PROFIT ON THE CONTRACT. A FILLED IN VERSION OF THE CUSTOMER CONFIRMATION STATEMENT REFLECTING A SINGLE TRANSACTION IN A REPRESENTATIVE LEVERAGE COMMODITY FOR A LONG LEVERAGE TRANSACTION AND A SHORT LEVERAGE TRANSACTION WHICH INCLUDES A FORMULA FOR CALCULATING AN ESTIMATE OF THE LEVERAGE CONTRACT'S BREAK-EVEN VALUE IS ATTACHED TO THIS DOCUMENT. THIS IS IN THE SAME FORMAT AS THE CONFIRMATION STATEMENT YOU WILL RECEIVE TO CONFIRM YOUR ACTUAL TRANSACTION. BE CERTAIN THAT YOU UNDERSTAND THE INFORMATION PROVIDED BY THIS STATEMENT BEFORE YOU ENTER INTO A LEVERAGE TRANSACTION.

YOU SHOULD ALSO UNDERSTAND THAT THE CHARGES FOR SIMILAR LEVERAGE CONTRACTS WHICH ARE REFLECTED ON THE FILLED-IN CONFIRMATION STATEMENT AS ESTIMATED MAY VERY AMONG LEVERAGE FIRMS, AND THAT SUCH FIRMS HAVE COMPLETE DISCRETION IN SETTING THEIR CHARGES AND THE PRICE OF THE LEVERAGE CONTRACTS THEY OFFER. PRIOR TO ENTERING INTO ANY LEVERAGE CONTRACT A PROSPECTIVE LEVERAGE CUSTOMER SHOULD COMPARE THE CHARGES AND PRICES OF SUCH FIRMS WITH EACH OTHER AND WITH THE COMMISSIONS FOR AND PRICES OF FUTURES CONTRACTS TRADED ON DESIGNATED EXCHANGES.

* * * * *

THERE IS NO MARKET FOR THE LEVERAGE CONTRACT ITSELF OTHER THAN TO HAVE IT REPURCHASED BY OR RESOLD TO THE LEVERAGE TRANSACTION MERCHANT. A LEVERAGE TRANSACTION MERCHANT IS UNDER NO OBLIGATION TO OFFER TO REPURCHASE OR RESELL A LEVERAGE CONTRACT AT ALL TIMES, ALTHOUGH THE LEVERAGE TRANSACTION MERCHANT MUST OFFER TO REPURCHASE ANY LONG LEVERAGE CONTRACT PREVIOUSLY PURCHASED BY A LEVERAGE CUSTOMER AND MUST ALSO OFFER TO RESELL ANY SHORT LEVERAGE CONTRACT PREVIOUSLY SOLD BY A LEVERAGE CUSTOMER AT ANY TIME DURING WHICH THE LEVERAGE TRANSACTION MERCHANT IS

OFFERING TO ENTER INTO NEW LONG OR SHORT LEVERAGE CONTRACTS WITH CUSTOMERS INVOLVING THE SAME LEVERAGE COMMODITY. AS NOTED ABOVE, HOWEVER, A LEVERAGE TRANSACTION MERCHANT HAS COMPLETE DISCRETION IN SETTING THE PRICE AND ANY CHARGES RELATED THERETO.

* * * * *

(3) A filled-in version of the customer Confirmation Statement in the format specified by the Commission for a representative single long leverage contract and a representative single short leverage contract which includes a formula which can be used to estimate the break-even price.

* * * * *

(k) * * *

(1) * * *

(ii) * * *

(E) The total cost of the leverage contracts covered in the Confirmation Statement, which equals the leverage transaction merchant's ask price in dollars per unit miltiplied by the number of units multiplied by the number of contracts;

(F) The total unpaid balance for the transaction;

(G) The total initial charges for the transaction;

(H) The total initial margin for the transaction, in dollars and as a percentage of the contract price;

(I) The total amount due (or paid) to initiate the transaction, which equals the total initial charges plus the total initial margin in dollars;

(J) The current equity in the individual customer's account as of the date of the transaction;

(K) The total variable carrying charges to be billed each period, in dollars and as an annual percentage rate, based on the carrying charge rate prevailing at the time the contract is entered into;

(L) The total bid/ask spread, based on prices prevailing at the time the contract is entered into;

(M) The total termination charges incurred if the contract is repurchased, liquidated by the leverage transaction merchant or settled by delivery, based on charges prevailing at the time the contract is entered into;

(N) Any other charges associated with terminating the transaction, based on charges prevailing at the time the contract is entered into;

(O) Any special charges associated with liquidating the transaction, based on charges prevailing at the time the contract is entered into;

(P) The total delivery charges incurred if the customer takes delivery on the contract, based on charges prevailing at the time the contract is entered into;

(Q) The following formula enabling a customer to calculate the estimated total contract value to break-even: Initial contract value plus the bid-ask spread plus the initial charges plus any other charges plus the termination charges plus the carrying charges for the period the contract is intended to be held open;

(R) The total minimum margin, in dollars and as a percentage of contract price, based on the rate prevailing at the time the contract is entered into;

(S) The total maintanenance margin, in dollars and as a percentage of contract price, based on the rate prevailing at the time the contract is entered into;

(T) The commercial or retail cash price series filed in accordance with § 31.6 available to the leverage customer to evaluate the leverage contract (including any applicable premiums or discounts), and where quotes of this series can be obtained on a timely basis; and

(2) Within 24 hours after entry into a short leverage contract with a customer, each leverage transaction merchant shall furnish to such customr by first-class mail or other, at least equivalent, means of communication, a written Confirmation Statement in a format specified by the Commission containing:

* * * * *

(ii) The following additional information:

(A) The date the leverage contract was entered into;

(B) The transaction identification number;

(C) The name of the leverage commodity;

(D) The expiration date of the leverage contact;

(E) The total cost of the leverage contracts covered in the Confirmation Statement, which equals the leverage transactions merchant's bid price in dollars per unit multiplied by the number of units multiplied by the number of contracts;

(F) The total initial charges for the transaction;

(G) The total initial margin for the transaction, in dollars and as a percentage of the contract price;

(H) The total amount due (or paid) to initiate the transaction, which equals the total initial charges plus the total initial margin in dollars;

(I) The current equity in the individual customer's account as of the date of the transaction;

(J) The total variable carrying charges to be credited each period, in dollars and as an annual percentage rate, based on the carrying charge rate prevailing at the time the contract is entered into;

(K) The total bid/ask spread, based on prices prevailing at the time the contract is entered into;

(L) The total termination charges incurred if the contract is resold, liquidated by the leverage transaction merchant or settled by delivery, based on charges prevailing at the time the contract is entered into;

(M) Any other charges associated with terminating the transaction, based on charges prevailing at the time the contract is entered into;

(N) Any special charges associated with liquidating the transation, based on charges prevailing at the time the contract is entered into;

(O) The total delivery (including assay) charges incurred if the customer makes delivery on the contract, based on charges prevailing at the time the contract is entered into;

(P) The following formula enabling a customer to calculate the estimated total contract value to break-even: Initial contract value plus carrying charges for the period the contract is intended to be held open, minus the bid-ask spread, minus the initial charges, minus any other charges, minus the termination charges;

(Q) The total minimum margin, in dollars and as a percentage of contract price, based on the rate prevailing at the time the contract is entered into;

(R) The total maintenance margin, in dollars and as a percentage of contract price, based on the rate prevailing at the time the contract is entered into;

(S) The commercial or retail cash price series filed in accordance with § 31.6 available to the leverage customer to evaluate the leverage contract (including any applicable premiums or discounts), and where quotes of this series can be obtained on a timely basis; and

* * * * *

5. Section 31.25 is proposed to be added to read as follows:

§ 31.25 Bid and ask prices; carrying charges.

(a) A leverage transaction merchant must use the same bid price at any particular point in time to purchase a leverage contract from a leverage customer (initiation of a short transaction) and to repurchase a leverage contract from a leverage customer (close-out of a long transaction), and a leverage transaction merchant must use the same ask price at any particular point in time to sell a leverage contract to a leverage customer (initiation of a long transaction) and to

resell a leverage contract to a leverage customer (close-out of a short transaction), with respect to contracts involving the same leverage commodity.

(b) A leverage transaction merchant must apply the same carrying charge rate on a short leverage contract that it applies to a long leverage contract. In the case of a short leverage contract, the leverage customer must be credited with carrying charges computed on the total initial value of the contract, using the bid price when the contract was executed, plus any margin deposits made by the leverage customer in connection with the contract. In the case of a long leverage contract, the leverage customer may be assessed carrying charges only on the unpaid balance of the contract, which is the total initial value of the contract, using the ask price when the contract was executed, minus any margin deposits made in connection with the contract.

6. Section 31.26 is proposed to be added to read as follows:

§ 31.26 Quarterly reporting requirement.

(a) Each leverage transaction merchant must file, in accordance with paragraph (c) of this section, a quarterly report with the Commission's headquarters office in Washington, D.C. by the fifteenth business day of the month following the quarter covered by the report. The report must list all leverage contracts which were either repurchased, resold, liquidated or settled by delivery by or to the leverage transaction merchant during the quarter and, with respect to each leverage contract, must include the following information:

(1) The leverage commodity and contract involved;

(2) Whether a long or short leverage contract was involved;

(3) The date the leverage contract was entered into;

(4) The maturity date of the leverage contract at initiation;

(5) The price at which the leverage contract was entered into;

(6) Whether the leverage contract was repurchased, resold, liquidated or settled by delivery;

(7) The date the leverage contract was repurchased, resold, liquidated or settled by delivery;

(8) The price at which the leverage contract was repurchased, resold or liquidated;

(9) The leverage customer account identification number;

(10) Whether the leverage customer had a commercial or noncommercial leverage account;

(11) Whether the leverage customer was the owner or holder of a proprietary leverage account as defined in § 31.4(e); and

(12) The profit or loss incurred by the leverage customer on the contract. In the case of a long leverage contract, profit or loss shall be determined by subtracting, from the total value of the contract based on the leverage transaction merchant's bid price at the time of repurchase or liquidation, the total value of the contract based on the ask price at which the contract was entered into, minus any amounts paid or owed by the leverage customer to the leverage transaction merchant, including initial, carrying and termination charges, plus any amounts paid or credited by the leverage transaction merchant to the leverage customer, in connection with the leverage contract. In the case of a short leverage contract, profit or loss shall be determined by subtracting, from the total value of the contract based on the bid price at which the contract was entered into, the total value of the contract based on the leverage transaction merchant's ask price at the time of resale or liquidation, minus any amounts paid or owed by the leverage customer to the leverage transaction merchant, including initial, carrying and termination charges, plus any amounts paid or credited by the leverage transaction merchant to the leverage customer, in connection with the leverage contract.

(b) Each leverage transaction merchant must file with the Commission's headquarters office in Washington, D.C., concurrently with the report required to be filed pursuant to paragraph (a) of this section and in accordance with paragraph (c) of this section, a list of all leverage customers who had a leverage contract repurchased, resold, liquidated or settled by delivery during the quarter covered by that report. The list must be in numeric order by customer account identification number, and must include the leverage customer's name, address, telephone number and customer account identification number.

(c)(1) Each leverage transaction merchant must file with the Commission or its designee, within 30 days of the date of publication of this section in the **Federal Register**, a proposed format and coding structure for the submission of the information required by paragraph (a) of this section on compatible data processing magnetic tape. Within 20 days after receipt of such proposal, the Commission or its designee shall: (i) Notify the leverage transaction merchant of the approval or disapproval of the proposed format and coding structure; or (ii) indicate to the leverage transaction merchant that additional time is required to analyze the proposal, in which case the amount of time needed will be specified. If a proposed format and coding structure is disapproved by the Commission or its designee, acceptable changes to the proposed format will be specified which must be adopted by the leverage transaction merchant, unless an alternative proposal addressing the disapproved items is filed within 10 days after notification of such disapproval.

(2) Unless otherwise approved by the Commission or its designee, the information required by paragraph (a) of this section must be submitted on compatible data processing magnetic tape, using a format and coding structure approved in writing by the Commission or its designee. Unless otherwise required by the Commission or its designee, the information required by paragraph (a) must also be accompanied by, and the information required by paragraph (b) of this section must be submitted by means of, a complete and accurate printout of information, which shall be signed by the leverage transaction merchant if a sole proprietorship, by a general partner of a leverage transaction merchant which is a partnership, by a chief executive officer or the chief financial officer of a leverage transaction merchant which is a corporation, or by a person designated by the leverage transaction merchant for such purpose provided such designee has been identified as such in writing to the Commission.

PART 190—BANKRUPTCY

7. Section 190.01 is proposed to be amended by revising paragraph (bb) to read as follows:

§ 190.01 Definitions.

* * * * *

(bb) "Non-public customer" means any person enumerated in § 1.3(y) or in § 31.4(e) of this chapter, who is defined as a customer under paragraph (k) of this section.

* * * * *

Issued in Washington, D.C. on December 21, 1984, by the Commission.

Jean A. Webb,

Secretary of the Commission.

BILLING CODE 6351-01-M

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE TRANSACTION SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ON A LEVERAGE CONTRACT PURCHASED FROM A LEVERAGE TRANSACTION MERCHANT ARE CALCULATED BY SUBTRACTING THE ASK PRICE OF THE LEVERAGE CONTRACT AT THE TIME OF THE CUSTOMER'S RESCISSION FROM THE ASK PRICE AT WHICH THE LEVERAGE CONTRACT WAS PURCHASED AND WHICH APPEARS ON THIS CONFIRMATION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (name and address of LTM) OR YOU MAY TELEPHONE (name of LTM) AT (telephone number). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE WRITTEN AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR BY AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE.

CONFIRMATION STATEMENT FOR A CONTRACT
INITIALLY PURCHASED BY A CUSTOMER

Date: _____ Transaction I.D. Number: _____

Commodity: _____ Contract Expiration: _____

TOTAL INDEBTEDNESS

Total Value of
Contracts Purchased $_____ ($(Ask Price) per (Contract Unit)
X (No. of Units) X (No. of Contracts))

TOTAL UNPAID BALANCE $_____

INITIAL FEES AND MARGIN

Total Initial Charges $_____
Total Initial Margin +$_____ (____ % of Total Value of Contracts Purchased)

Total Amount Due Now To
Initiate This Transaction
(Disregard If Paid) =$_____

CURRENT EQUITY IN ACCOUNT $_____

SCHEDULE OF CHARGES 1/

Current Estimate of Variable
(specify period) Carrying $_____ (____ % Annual Rate)
Charges to be Billed
Starting (date)

CURRENT ESTIMATED SETTLEMENT COSTS

To Have LTM Repurchase
Total Current Bid/Ask Spread $_____
Total Current Termination Charges +$_____
Other Charges +$_____ = $____ Total

Special Charges if Liquidated $_____

To Take Delivery
Total Current Delivery Charges $_____

ESTIMATE OF TOTAL CONTRACT VALUE TO BREAK-EVEN = INITIAL CONTRACT VALUE + BID-ASK SPREAD + INITIAL CHARGES + OTHER CHARGES + TERMINATION CHARGES + CARRYING CHARGES FOR THE PERIOD THE CONTRACT IS INTENDED TO BE HELD OPEN.

OTHER INFORMATION

Total Minimum Margin $_____ (_____ % of Total Value of Contracts Purchased)
Total Maintenance Margin $_____ (_____ % of Total Value of Contracts Purchased)

PRICE SERIES TO EVALUATE CONTRACT: _____

SOURCE OF PRICE SERIES: _____

1/ These charges and margins are subject to change. In addition, some of these charges are based on prices prevailing at the time the contract is terminated. See Disclosure Document. The customer will be notified of such changes by (specify manner of notification).

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE TRANSACTION SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ON A LEVERAGE CONTRACT SOLD TO A LEVERAGE TRANSACTION MERCHANT ARE CALCULATED BY SUBTRACTING THE BID PRICE AT WHICH THE LEVERAGE CONTRACT WAS SOLD TO THE LEVERAGE TRANSACTION MERCHANT AND WHICH APPEARS ON THIS CONFIRMATION FROM THE BID PRICE OF THE LEVERAGE CONTRACT AT THE TIME OF THE CUSTOMER'S RESCISSION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (name and address of LTM) OR YOU MAY TELEPHONE (name of LTM) AT (telephone number). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE WRITTEN AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR BY AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE.

CONFIRMATION STATEMENT FOR A CONTRACT
INITIALLY SOLD BY A CUSTOMER

Date: _____ Transaction I.D. Number: _____

Commodity: _____ Contract Expiration: _____

Total Value of
Contracts Sold $_____ ($(Bid Price) per (Contract Unit)
X (No. of Units) X (No. of Contracts))

INITIAL FEES AND MARGIN

Total Initial Charges $_____
Total Initial Margin +$_____ (___ % of Total Value of Contracts Sold)

Total Amount Due Now To
Initiate This Transaction
(Disregard If Paid) =$_____

CURRENT EQUITY IN ACCOUNT $_____

SCHEDULE OF CHARGES 1/

Current Estimate of Variable
(specify period) Carrying Charges to
be Credited Starting (date) $_____ (___% Annual Rate)

CURRENT ESTIMATED SETTLEMENT COSTS

To Have LTM Resell	Total Current Bid/Ask Spread	$_____	
	Total Current Termination Charges	+$_____	
	Other Charges	+$_____	= $____ Total
	Special Charges if Liquidated	$_____	
To Make Delivery	Total Current Delivery Charges	$_____	

ESTIMATE OF TOTAL CONTRACT VALUE TO BREAK-EVEN = INITIAL CONTRACT VALUE + CARRYING CHARGES FOR THE PERIOD THE CONTRACT IS INTENDED TO BE HELD OPEN - BID-ASK SPREAD - INITIAL CHARGES - OTHER CHARGES - TERMINATION CHARGES.

OTHER INFORMATION

Total Minimum Margin 1/ $_____ (___ % of Total Value of Contracts Sold)
Maintenance Margin 1/ $_____ (___ % of Total Value of Contracts Sold)

PRICE SERIES TO EVALUATE CONTRACT: _____

SOURCE OF PRICE SERIES: _____

1/ These charges and margins are subject to change. In addition, some of these charges are based on prices prevailing at the time the contract is terminated. See Disclosure Document. The customer will be notified of such changes by (specify manner of notification).

[FR Doc. 84-34000 Filed 12-31-84; 8:45 am]
BILLING CODE 6351-01-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 157 and 284

[Docket No. RM85-1-000]

Interstate Transportation of Gas for Others

December 24, 1984.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission is instituting a series of inquiries into the effects on the natural gas industries of the Congressionally-mandated transition to competitive pricing of natural gas at the wellhead. In particular, we will inquire into the implications of partial wellhead decontrol on our regulation of the interstate pipelines.

The present Notice of Inquiry will focus on issues relating to our regulation of the transporation of natural gas in interstate commerce on behalf of non-owner shippers. Non-owner shippers are those shippers seeking transportation on a pipeline system in which they do not have an ownership interest. Subsequent inquiries will be commenced over the next four to six weeks to examine the implications of partial wellhead decontrol on two other broad areas of pipeline regulation: (1) Rate structures and design; and (2) the financial implications for regulated pipelines (*e.g.*, business risks and rates of return).

DATES: Comments must be received before 4:30 p.m. e.s.t. on February 4, 1985; public conference, February 20, 1985; requests to participate in the conference must be received on or before February 13, 1985.

ADDRESSES: Comments and requests to participate in the conference should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426; the time and location of the public conference will be noticed at a later date.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Office of the Secretary, Federal Energy Regulatory Commission, Washington, D.C. 20426, (202) 357-8400.

SUPPLEMENTARY INFORMATION:

Notice of Inquiry

Interstate Transportation of Gas for Others; (Docket No. RM85-1-000).

December 24, 1984.

I. Introduction

The Federal Energy Regulatory Commission is instituting a series of inquiries into the effects on the natural gas industries of the Congressionally-mandated transition to competitive pricing of natural gas at the wellhead. In particular, we will inquire into the implications of partial wellhead decontrol on our regulation of the interstate pipelines.

The present Notice of Inquiry will focus on issues relating to our regulation of the transportation of natural gas in interstate commerce on behalf of non-owner shippers. Non-owner shippers are those shippers seeking transportation on a pipeline system in which they do not have an ownership interest. Subsequent inquiries will be commenced over the next four to six weeks to examine the implications of partial wellhead decontrol on two other broad areas of pipline regulation: (1) Rate structures and design; and (2) the financial implications for regulated pipelines (*e.g.*, business risks and rates of return).

II. Background

In November of 1978, the Congress enacted the Natural Gas Policy Act of 1978 (NGPA).[1] As noted by the U.S. Supreme Court, the NGPA "has been justly described as 'a comprehensive statute to govern future natural gas regulation.'"[2] In adopting the NGPA, one of the Congress' "motivating purposes" was "to eliminate the dual market that distinguished between interstate and intrastate sales of natural gas."[3]

This integration of the two markets was to be effected by a scheme of gradual, partial removal of federal price controls over natural gas at the wellhead (NGPA Title I and section 601 (a)(1) and (b)(1)) and by the provision for more efficient transportation of natural gas (NGPA Title III and section 601(a)(2)).

In short, the NGPA set in motion a gradual transition from a regulatory scheme in which interstate natural gas was subject to federal regulation from the wellhead to the city gate to a scheme in which wellhead and burner tip prices are increasingly set by market forces while interstate pipelines remain subject to regulation under the Natural Gas Act (NGA).

Developments over the last six years have moved the natural gas industries significantly along through this transition. Since 1978, wellhead prices have risen,[4] calling forth new supplies of natural gas [5] while at the same time providing incentives for users of gas to conserve,[6] thereby cutting back on demand.[7] After the sharp run-up from 1978 to 1982, *average* wellhead prices stabilized in early 1983 and have hovered at the same level over the last two years.[8]

One by-product of the rapidity with which these supply and demand changes occurred under the NGPA was the appearance in 1982 of a substantial surplus of gas deliverability.[9] This surplus translated into significant take-or-pay exposure for many interstate pipelines and tended to increase the demand for transportation services.

In including sections 311 and 601(a)(2) in the NGPA, the Congress appears to have intended to move towards an integrated national natural gas transportation system.

TABLE 25.—ESTIMATED SURPLUS NATURAL GAS [1]

Date surveyed	Volume estimated as available during 6-month period [2] (billion cubic feet)	Period during which surplus deliverability available
1981:		
January	219	January 1981–June 1981.
April	437	April 1981–September 1981.
July	410	July 1981–December 1981.
October	242	October 1981–March 1982.
1982:		
January	456	January 1982–June 1982.
April	664	April 1982–September 1982.
July	1,229	July 1982–December 1982.
October	1,189	October 1982–March 1983.
1983:		
January	1,715	January 1983–June 1983.
April	2,605	April 1983–September 1983.
July	2,357	July 1983–December 1983.
October	2,077	October 1983–March 1984.
1984:		
January	1,695	January 1984–June 1984.
April	1,897	April 1984–September 1984.
July	1,872	July 1984–December 1984.

[1] 15 U.S.C. 3301 *et seq.* (Supp. V 1981).

[2] Public Service Commission of New York v. Mid-Louisiana Gas Co.,——U.S.——, 103 S. Ct. 3024, 3031 (1983).

[3] *Id.* 3037 (footnote omitted).

[4] *See e.g.*, U.S. Energy Information Administration, *Natural Gas Monthly*, at 23 (Trade 10) (September 1984) (DOE/EIA-0130 (84/08)) (hereafter cited as *Natural Gas Monthly*).

[5] U.S. Energy Information Administration, *U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Reserves, 1983 Annual Report* (October 1984) (DOE/EIA-0216 (83)) (showing stabilization of U.S. natural gas reserves levels).

[6] U.S. Energy Information Administration, *Monthly Energy Review* at 18 (June 1984) (DOE/EIA-0035 (84/06)) (hereafter cited as *Monthly Energy Review*) (showing petroleum and natural gas consumption per 1972 dollar of Gross National Product declining from 41.6 MBtu in 1977 to 30.7 MBtu in the second quarter of 1984).

[7] *Natural Gas Monthly*, *supra* at 12 (Table 3) (showing decline in natural gas consumption from approximately 20 Tcf in 1975–1980 period to 17 Tcf in 1983).

[8] *Natural Gas Monthly*, *supra* at 23 (Table 10).

[9] *Natural Gas Monthly*, *supra* at 45 (Table 25) (reproduced below).

TABLE 25.—ESTIMATED SURPLUS NATURAL GAS [1]—Continued

Date surveyed	Volume estimated as available during 6-month period [2] (billion cubic feet)	Period during which surplus deliverability available
October	1,506	October 1984–March 1985.

[1] See Explanatory Note 14 for discussion of estimated surplus natural gas.
[2] The total estimated volume of surplus natural gas available during the six-month periods may include some double counting. For example, if a pipeline company purchasing gas from a first supplier reports all gas in excess of system customer requirements as surplus, this pipeline company could have a contract with another company which is taking less than 100 percent of the contract quantity. Inasmuch as the second company has contract rights to the gas, it could report this same gas as surplus. Every effort to eliminate or minimize these occurrences has been effected.
NOTES AND SOURCES.—See the last page of this section.

For example, in discussing the earlier version of the provision initially adopted by the House of Representatives, the committee report noted that by authorizing the Federal Power Commission (FPC) [now the FERC] to authorize certain interstate transportation by intrastate pipelines, the provision:

> facilitates development of a national natural gas transportation network without subjecting intrastate pipelines, already regulated by State agencies, to FPC regulation over the entirety of their operations. Instead, the intrastate pipelines are immunized from State or Federal regulation as common carriers and from FPC regulation under the Natural Gas Act.[10]

And indeed, in its interim regulations implementing section 311 (promulgated contemporaneously in 1978), the Commission itself noted that it was:

> well aware that the NGPA seeks to strike down the jurisdictional barriers which have precluded interstate and intrastate pipelines from taking advantage of the most economic and efficient means of transporting natural gas. Sections 311(a)(1) and 311(a)(2) provide the Commission with important new authorities designed to achieve a national transportation system with its attendant economies and efficiencies.[11]

In furthering this Congressional goal, the Commission has established a series of regulatory programs (under both the NGA and the NGPA) authorizing interstate transportation, including:

- *Order No. 27* [12] (facilitating interstate transportation to certain non-industrial end-users including those using gas for essential agricultural users, or in schools, hospitals or similar institutions).
- *Order No. 30* [13] (facilitating interstate transportation by both interstate and intrastate pipelines to individual end-users under section 311 of the NGPA to displace the use of fuel oil).
- *Order No. 60* [14] (adopting blanket certificate program allowing interstate pipelines to transport gas on behalf of other interstate pipelines on a self-implementing basis).
- *Order No. 46* [15] (adopting permanent regulations implementing section 311(a) of the NGPA.
- *Order No. 63* [16] (allowing so-called "Hinshaw" pipelines to, *inter alia*, transport natural gas in interstate commerce on the same terms and conditions as allowed for intrastate pipelines under section 311 of the NGPA).
- *Order No. 52* [17] (removing end-use restrictions on transportation of gas for high-priority customers, allowing them to also have gas transported to displace fuel oil).
- *Order No. 92* [18] (this Statement of Policy outlines the criteria for Commission authorization of transportation of natural gas produced from Outer Continental Shelf leases owned by distributors to their service areas).
- *Order No. 319* [19] (consolidating programs under Order Nos. 2 and 27 authorizing interstate transportation for various high-priority end-users).
- *Order No. 234–B* [20] (designating all end-users as eligible for blanket certificate transportation for limited period expiring June 30, 1985).

Finally, of course, many of the marketing programs put in place by pipelines and producers over the last year have involved the interstate transportation of natural gas by interstate and intrastate pipelines.[21]

Some programs were authorized under the NGA,[22] while others were approved under the NGPA.[23] The jurisdictional consequences of particular transactions varied depending on the basis of the Commission's authorization.

Each of these programs authorized the interstate transportation of natural gas for specified types of sellers, carriers, shippers, purchasers or users. Different criteria were established under each program as to length and scope of authorization, prior notice, reporting and similar items.

Over the last few years, the amount of gas carried under the programs has increased sharply. For example, the amount of gas transported by interstate pipelines on behalf of local distribution companies and intrastate pipelines has increased from approximately 74,000 Mcf in 1978 to perhaps as much as 1.6 Tcf in 1983.[24] Similarly, actual volumes

[10] H.R. Rept. No. 543, 95th Cong. 1st Sess. 45 (1977).

[11] Interim Regulations Implementing the Natural Gas Policy Act of 1978, Docket No. RM79–3 [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,026, at 30,226 (1978), 43 FR 56448 (December 1, 1978).

[12] Certification of Pipeline Transportation for Certain High Priority Users, Docket No. RM79–18, Order No. 27 [Reg. Preambles 1977–1981], FERC Stat. & Reg ¶ 30,049 (1979), 44 FR 28425 (1979) (*codified at* 18 CFR Part 157, Subpart E (§§ 157.100–157.105)).

[13] Transportation Certificates for Natural Gas for the Displacement of Fuel Oil, Docket No. RM79–34, Order No. 30 [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,054, 44 FR 30323 (1979), *amended on rehearing*, Order No. 30–A [Reg. Preambles 1977–1981] FERC Stat. & Reg. ¶ 30,084 (1979), 44 FR 54472 (1979) (*codified at* 18 CFR Part 284, Subpart F (§§ 284.200–284.208)).

[14] Interstate Pipeline Transportation on Behalf of Other Interstate Pipelines, Docket No. RM79–74, Order No. 60 [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,107, 44 FR 68819 (1979).

[15] Sales and Transportation of Natural Gas, Docket No. RM79–75, Order No. 46 [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,081, 44 FR 52179 (1979), Order on Rehearing [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,104 44 FR 66789 (1979).

[16] Certain Transportation, Sales and Assignments by Pipeline Companies Not Subject to Commission Jurisdiction under section 1(c) of the Natural Gas Act, Docket No. RM79–24, Order No. 63 [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,118, 45 FR 1872 (1980).

[17] In the Matter of Fuel Oil Displacement by Process or Feedstock Users, Docket No. RM80–1, Order No. 52 [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,088 44 FR 60080 (1979) (*codified at* 18 CFR 2.79(k)–(n)).

[18] Statement of Policy on Distributor Access to Outer Continental Shelf Gas, Docket No. RM80–11, Order No. 92, [FERC Stat. & Reg.] ¶ 30,173, 45 FR 49247 (1980), *effective date established* [FERC Stat. & Reg.] ¶ 30,174 (1980).

[19] Sales and Transportation by Interstate Pipelines and Distributors, Docket No. RM81–29–000, Order No. 319, 3 FERC Stat. & Reg. ¶ 30,477, 48 FR 34872 (1983), *effective date established*, 3 FERC Stat. & Reg. ¶ 30,479, 48 FR 35635 (1983), *rehearing granted in part and denied in part*, Order No. 319–A, 25 FERC ¶ 61,194 (1983), 48 FR 51436 (1983) (*promulgating* 18 CFR 157.209 and 157.202(a)(13), (14)).

[20] Interstate Pipeline Blanket Certificates for Routine Transactions and Sales and Transportation by Interstate Pipelines and Distributors, Docket Nos. RM81–19–000 and RM81–29–000, Order No. 234–B, 3 FERC Stat. & Reg. ¶ 30,476, 48 FR 34872 (1983) (*promulgating* 18 CFR 157.209(e)), *effective date established*, 3 FERC Stat. & Reg. ¶ 30,479 (1983) 48 FR 35635 (1983) (establishing effective date of August 5, 1983).

[21] Tenneco Oil Co., *et al.*, 28 FERC ¶ 61,383 (1984).

[22] *E.g.*, Order Nos. 27, 60, 63, 319 and 234–B.

[23] *E.g.*, Order Nos. 30 and 46.

[24] *Natural Gas Montly*, *supra* at 40 (Table 22). Since the initial report required under the regulations calls for estimated volumes only, actual volumes transported may be signficantly lower, however.

transported during the first nine months of the Order Nos. 319 and 234–B program exceeded 120 Bcf,[25] and have been continuing to increase significantly.[26]

However, the competitive pressures caused by partial well-head deregulation continue to grow and will likely become even more evident after January 1, 1985. Demand for transportation services to reflect the growing competition at wellhead and burnertip can also be expected to increase. It may be that the need for transportation services that are more responsive to competitive market requirements cannot be satisfied under the existing programs described above.

III. Discussion

Our objective in this Notice is to elicit constructive and thoughtful discussion about how regulation of interstate transportation of gas under the Natural Gas Act should be structured to ensure that the natural gas market becomes a viable and competitive market in which consumers are provided adequate supplies of gas at the lowest reasonable cost. To this end, we request comments of two types.

First, we solicit new and innovative proposals for a cohesive regulatory scheme governing *all* interstate trasnportation of gas under the NGA that is suitable to the needs of a more competitive gas industry. Such a scheme would address principles governing access to and rates for transportation on pipelines that offer both sales and trasnportation services.

Also appropriate for consideration in this regard would be provisions governing and/or facilitating exchanges of gas to achieve more efficient use of existing transportation capacity. A discussion of the regulation of an access to transportation as they relate to the viability of spot and futures markets is also solicited.

Second, we request a review of all aspects of the present programs under which interstate pipeline carriage is now provided for non-owner shippers. As detailed below, we seek comment in four broad areas:

- Reassessment of eligibility criteria.
- Appropriate rate treatment for transportation actions and revenues.
- Review of Commission policies towards "core" market competition/protection.
- Review of issues relating to mandated carriage of gas for non-owner shippers.

A. Reassessment of eligibility criteria

As noted above, the current regulations create a fairly detailed set of alternative criteria under which gas can be transported.[27] The Commission seeks comments on how the eligibility criteria could be improved. Specific questions to which answers may be helpful include:

1. *Functioning of existing programs:* How well have the existing programs been functioning? How useful have they been from a practical standpoint? Are there gaps in the existing regulatory programs? Are there any particular problems or "glitches" in the way the regulations operate that could be eliminated? If so, how?

2. *Simplification:* Is it possible or desirable to simplify transportation transactions by incorporating all of the separate programs into a fairly uniform, standardized scheme? If so, how? Or is it preferable to reatin the existing array of approaches with each program tailored to particular circumstances of types of gas, end-users, etc.?

3. *Regulation under NGPA §311:*

a. Under Order No. 46 (promulgating 18 CFR 284.102 and 284.122) self-implementing transportation is authorized under NGPA section 311 where the gas is being moved on behalf of a local distribution company for "system supply." Under Order No. 30, however, the Commission allowed self-implementing transportation under NGPA section 311 for particular end-users. Should the general "system supply" requirement be retained or eliminated? From a practical business standpoint, what obstacles are raised by the "system supply" test? What public interests would be served by retention of the requirement (see also questions on "core" market protection/competition below)? What have been the practical effects of the Commission's orders in the *East Tennessee* and *Texaco* cases[28] clarifying the meaning of the system supply test?

b. Should the two year limitation for self-implementing transportation be altered?

c. Should the reporting requirements under 18 CFR 284.106 and 284.126 call for more information or for less? should there be no change?

4. Blanket transportation certificates:

a. Under Order No. 234–B, all end-users were designated as eligible for self-implementing transportation under 18 CFR 157.209(e) through June 30, 1985. Should the eligibility be extended, and if so, for how long? Should qualification for all end-users be made a permanent part of the regulations?

b. Should the notice and protest procedure under 18 CFR 157.205 be modified, eliminated or left unchanged?

c. Under Order No. 319, only gas that was *not* "committed or dedicated to interstate commerce" on November 8, 1978 may be transported under a blanket certificate. Should eligible supply be broadened to include gas which was "committed or dedicated" but which has subsequently been removed from the Commission's NGA jurisdiction by operation of NGPA section 601(a)(1)? Should eligibility be broadened to include NGPA section 102(d) gas (old OCS lease gas) and/or other "committed or dedicated" gas? if so, under what conditions should the Commission authorize abandonment under NGA section 7(b)?

d. Should the program be broadened to include eligibility for imported natural gas supplies?

e. Should the reporting requirements (particularly those set out in 18 CFR 157.207) be modified? How? Should a provision of "flexible authority" (*e.g.*, to add or delete delivery points within the authorized quantity) be made an integral part of the regulations?

f. Order No. 319 authorized the use on an experimental basis of an "Additional Incentive Charge" (AIC) for certain transactions. How useful has the incentive been? Should the AIC feature be retained as a permanent feature of the blanket certificate transportation program, or should it be modified or eliminated? See also questions below relating to rate treatment.

g. Should the reporting requirements under Subpart G of Part 284 (18 CFR 284.222(e)) be made more or less detailed?

h. How useful and/or burdensome have the various reporting requirements been? Should the Commission alter the requirements or shift some of the reporting burdens onto other parties?

5. *Special marketing programs.* Should the experimental special marketing programs be modified, extended or eliminated? Are there any aspects of the programs that should be permanently incorporated into the regulations?

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[25] Based on interim reports filed with FERC pursuant to Order No. 319 by all pipelines engaged in blanket certificate transportation.

[26] Based on individual filings for new transactions commenced between May 1, 1984 and September 30, 1984. Over 160 new transactions were reported, relating to as much as 30 Bcf per month in new transactions. Again, actual volumes transported may be significantly lower due to the short term of many transactions and buyers arranging a "portfolio" of alternative suppliers.

[27] *See e.g.*, Means & Angyal "The Regulation and Future Role of Direct Producer Sales," 5 *Energy J. J.* 1 (9184).

[28] East Tennessee Natural Gas Co., 27 FERC ¶ 61.229 (May 9, 1984); Texaco Inc., 27 FERC ¶ 61, 247 (May 9, 1984).

B. Review of rate treatment for transportation transactions and revenues

Under current regulations, rates for transportation have generally been set on a "fully allocated" basis. This means that the transportation rate recovers a portion of all the cost components which are used in providing the transportation service. In some circumstances, the Commission has used a 100 percent load factor rate as the appropriate rate.[29] In other instances, where a party has been able to demonstrate that a particular transportation service did not make use of certain costs components, the Commission has approved rates which make no contribution to those identified cost components.[30] For example, where it has been adequately shown that transportation service will make no use of particular storage facilities,[31] gathering facilities, or transportation by other pipelines, the Commission has approved rates which exclude cost responsibility for those facilities.

In short, the Commission has permitted some "unbundling" of the transmission cost component of rates from costs associated with other services. In a fully competitive industry, such services as gathering, transportation, sales, and storage would presumably be offered separately to its customers with each service bearing the cost of providing the service.

To help the Commission examine the need or desirability for greater use of such separately-offered services, and to generally evaluate rate treatment for transportation services, we request comments on the following questions:

1. Is there a need to employ something other than a fully allocated cost approach to transportation rates? Specifically, would an unbundled pricing methodology (*i.e.*, pricing storage, gathering and transmission separately on a cost-of-service basis) achieve more equitable and efficient transportation rates?

2. How should an unbundled rate be structured and administered? Should the transportation component of the rate reflect the distance involved in each transportation transaction? Would it be possible or desirable for the Commission to establish flexible transportation rates within pipeline zones so that prices are higher for long hauls and lower for short hauls, and the price at the end of each zone is set as the rate ceiling? If it is possible or desirable to do so, how would it best be accomplished? Are electronic rate filings currently a feasible technique for implementing transportation rate flexibility?

3. What effect, if any, would greater use of unbundled rates have on a pipeline's obligation to serve customers? Is a standby charge an appropriate way to compensate a pipeline for maintaining such an obligation? If so, how should such a charge be designed and implemented? Could a standby charge be made optional and charged only to those transportation sales customers who wished to retain a particular pipeline's service obligation? Should customers be permitted to exchange their standby rights?

4. What effect, if any, would unbundling gathering and storage costs for transportation rates have on the rates for that pipelines' sales customers? What rationale could be used for not assigning any storage costs to transportation service?

5. If the Commission should decide to unbundle pipeline services, should it insist that transportation services, storage services, and gathering services for transportation or sales customers be separately charged? Should it insist that all transportation services be performed under filed and effective tariffs?

6. Is it advisable to require each pipeline to establish representative transportation volumes, thereby allowing the pipeline to retain all revenues from transportation service and avoiding the need to require crediting of transportation revenues to Account 191? If the Commission were to adopt such a requirement, how could the Commission best establish representative transportation levels for each pipeline? Is a "full blown" NGA 4 rate case required or could this be done through a more finely-tailored rate proceeding, for example, by a filing to amend an existing settlement (supported by a cost and revenue study somewhat along the lines of what is required for a PGA filing)? Would it be possible and desirable to reflect, in representative volumes, quantities transported to local distribution companies as part of the recently modified special marketing programs, which allow LDC's to purchase up to 10 percent of their contract demand through SMP's?

7. In Order No. 319, the Commission authorized on an experimental basis an incentive transportation charge of up to five cents per MMBtu to help overcome a perceived pipeline reluctance to transport natural gas for certain shippers. This optional charge could apply only if a pipeline did not have representative transportation volumes established. In 417 transactions reported through October 31, 1984, the AIC was utilized in only 74 instances. See Appendix "A." What effect, if any, has the incentive charge had on encouraging the transportation of gas for others? Is there presently a need to allow for the charge on a permanent basis? If so, is the level of the charge sufficient, and to what types of transportation transactions should the charge be applied?

8. More generally, do pipelines have adequate incentives to voluntarily transport gas for others and, if not, what kinds of programs can be implemented to encourage such carriage?

9. The Commission seeks comments on whether transportation rates for services provided by one interstate pipeline to another and agreed upon by both should be reviewed by the Commission.

10. Would changes in FERC regulation of interstate transportation have any impacts on how local distribution companies are regulated by state public utility commissions?

C. Review of Commission policies towards "core" market competition/ protection

In approving the experimental special marketing programs (SMPs), which entailed use of non-traditional sales channels to permit direct producer sales, the Commission initially limited the types of markets that would have access to such competition. Until more could be learned about the effects of these programs, the Commission drew a distinction between firm sales and marginal sales and limited the SMPs to competing for the latter. (See Tenneco Oil Company, Docket No. CI83-269-000, 25 FERC ¶ 61,031 (1984).) These marginal sales were defined to include sales made under interruptible and discount rate schedules, producer and off-system sales, and sales made to displace alternate fuels including LPG and SNG. They were considered to be already at risk from the perspective of the traditional pipeline supplier. All firm sales which did not fall into these marginal categories were deemed to constitute "core" market sales. Displacing such sales with purchases from parties other than the traditional pipeline supplier could potentially have more far reaching consequences in terms of rate structure and economic impact than the loss of marginal sales.

As competition among pipelines has increased, the concept of "core" markets has been used by some pipelines to refer

[29] Tenneco Oil Co., *et al.*, 28 FERC ¶ 61,383 (1984) (Ordering paragraph (S)).

[30] Tennessee Gas Pipeline Co., 28 FERC ¶ 61,025 (1984); El Paso Natural Gas Co., 28 FERC ¶ 61, 284 (1984).

[31] *Id.*

to traditional markets. Pipelines losing load or finding traditional loads in jeopardy have expressed a concern as to the impact such load loss might have on their own systems. Customers of those pipelines have seconded those concerns.

At the same time, the customers have sought out alternative supplies to benefit from lower prices and increased flexibility.

In short, there are basic tensions between those who benefit from being able to obtain lower prices and greater flexibility and those who fear that they will face mounting unit fixed costs.

Traditionally, pipeline certification proceedings under section 7(c) have offered a forum for these competing interests. Increased flexibility and responsiveness now available under NGPA section 311 and blanket transportation certificates means that these issues are likely to arise with increasing frequency in other contexts.

Accordingly, the Commission requests comments on all aspects of these issues, including the following:

1. As transportation services replace sales as a source of pipeline revenue, what changes need to be made in rate structure and in pipeline purchasing and sales contracts?

2. How could a "portfolio" of supply sources be used adequately to discharge a pipeline's service responsibilities to all its customers, both marginal and firm?

3. To what extent should a pipeline customer's right to purchase gas (as evidenced by payment of a demand charge) be convertible into a right to have gas transported when that gas is not owned by the pipeline? To what extent should this right to transportation (as acquired by conversion of purchase rights) be negotiable (i.e., capable of being resold by the customer to a third party).

4. What would be the effect of making all "core" market sales subject to competition by alternative sellers of natural gas?

5. Is there some level or some particular kind of firm sales that constitutes a market needing protection, which would justify denying those customers access to competitive sources of gas? If so, describe the circumstances.

6. Since the Natural Gas Act does not provide for certification of monopoly franchises, what would be the rationale for extending a "core" market restriction in anything other than a temporary experimental program like the SMPs?

D. Review of issues relating to mandated carriage of gas for non-owner shippers

Presently pending before the Commission are several cases in which parties argue that the Commission has at least some legal authority to order interstate pipelines to provide transportation service for non-owner shippers in at least some limited circumstances.[32]

This is an issue which has also received increased attention before the Congress,[33] state legislatures,[34] state public utility commissions,[35] the courts [36] and the commentators.[37] Among the latter, the last two years have seen a number of studies of how some form of mandatory carriage might work [38]—or not work.[39] In addition, there have been a number of legal analyses relating to the circumstances under which a pipeline company may find itself under a legal obligation to transport for others.[40]

These are difficult questions with far-reaching consequences. Current developments in the courts and before the Commission suggest fairly strongly, however, that the time may now be ripe for the Commission to begin to search for well-considered answers. Accordingly, the Commission requests comments to the following questions:

1. *Background:* To what extent and under what circumstances, if any, should interstate pipelines decline to provide transportation service to potential customers? Do pipelines decline to offer transportation service under those circumstances? Do they fail to provide service under other circumstances?

2. *Legal authority under the NGA:* Under what circumstances, if any, may an interstate pipeline be under a legal obligation to carry gas for a nonowner shipper? In particular, does the Commission have the authority under the NGA to compel transportation:

a. in instances where there is monopoly or monopsony power which, if exercised, would prevent producers of gas from selling or purchasers of gas from buying otherwise marketable gas supplies? Absent such available transportation, is the more competitive wellhead market contemplated by the NGPA achievable?

b. as a remedy for a Commission finding of undue discrimination under NGA sections 4 and 5 by a pipeline that fails to offer transportation service for non-owner shippers?

c. where a pipeline purchaser has exercised a "market-out" or other contractual termination clause in a gas purchase agreement?

d. under other particular circumstances?

3. *Interrelation with antitrust laws:*

a. What responsibility does the Commission have to review and take account of allegations that a refusal to offer transportation service constitutes a violation of the antitrust laws?

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[32] *See e.g.*, Columbia Gas Transmission Corp., Docket No. RP84-11 (oral argument of March 7, 1984).

[33] S. 615, 98th Cong., 1st Sess. Section 403 (1983) (provision of Reagan Administration's proposal regarding mandatory carriage); S. 1715, 98th Cong., 1st Sess. section 401 (substitute provision originally proposed by Senator Bradley).

[34] Act of March 12, 1983, S. 117 (*codified at* W. Va. Code Section 11-24-11; 24-1-1, 7; 24-2-3, 4a-c, 11, 16; 24-2A1, 2; 24-2B-1,2; 24-3-2, 3a, 7, 8 (authorizing West Virginia Public Service Commission to require transportation by intrastate pipelines and by interstate pipelines with unused or excess capacity not needed to meet demands of interstate commerce); Act of February 9, 1984 (authorizing New York Public Service Commission to require transportation by regulated gas corporations on specified terms and conditions).

[35] Letter Order of July 11, 1984 of Pennsylvania Public Utility Commission, Docket No. R-832315 (directing all Class A and B gas utilities within state to file a gas transportation tariff within 60 days); Opinion and Order in *Pennsylvania Public Utility Commission, et al.* v. *The Peoples Natural Gas Co.* (Gas Transportation Rate), Docket Nos. R-832315, et al. (July 11, 1984) (concluding that Pennsylvania Commission has power under State Public Utility Code to direct a jurisdictional utility to provide gas transportation service to industrial and commercial customers who acquire their own source of gas supply); *Investigation on the Commission's own motion into the operations of all gas corporations regarding transportation of customer-owned gas from the California border to industrial facilities within California*, OII No. 84-04-079, *et al.* (April 18, 1984) (instituting investigation into policy issues and factual assumptions that the California P.U.C. should consider in addressing transportation of gas for non-owner shippers).

[36] *See e.g.*, State of Illinois vs. Panhandle Eastern Pipe Line Co., No. 84-1048 (C. D. Ill. filed February 7, 1984). Antitrust actions have also been filed by a pipeline against a distribution company and by a producer against a pipeline.

[37] Mogel and Gregg, "Appropriateness of Imposing Common Carrier Status on Interstate Natural Gas Pipelines," 4 *Energy L. J.* 144 (1983).

[38] Putnam, Hayes and Bartlett, Inc., *Mandatory Contract Carriage: An Essential Condition for Natural Gas Wellhead Competition and Least Consumer Cost* (September 1984) (study sponsored by the National Association of State Utility Consumer Advocates).

[39] Cambridge Energy Research Associates, *Mandatory Carriage: Consequences for the Natural Gas Industry and for Consumers* (May 1984); Interstate Natural Gas Association of America, *Natural Gas Carrier Status During the Current transition: A Critique of Mandatory Contract Carriage* (January 1984).

[40] Reiter, "Competition and Access to the Bottleneck: The Scope of Contract Carrier regulation Under the Federal Power and Natural Gas Acts," 18 *Land and Water L. Rev.* 1 (1983); Mahinka and Johnson, "New Antitrust Issues in a Deregulated Environment: Access to Pipelines," 4 *Energy L.J.* 211 (1983); Lambert and Gilfoyle, "Reforming Natural Gas Markets: The Antitrust Alternative," *Public Util. Fort.* 15 (May 12, 1983); Burke and Oliver, "Current Antitrust Developments in Oil and Gas Exploration and Production" in *Proceedings of the Thirtieth Annual Institute on Oil and Gas Law and Taxation* 271 (A. Ernst. ed., 1979).

b. If there is an obligation imposed by a Federal court under the antitrust laws to offer transportation service under particular circumstances, how should rates for the service be established? Moreover, what should be the role of the Commission in establishing those rates?

c. Are there circumstances under which a refusal to transport gas for others might be deemed *prima facie* reasonable or unreasonable? How much weight might be given to outstanding take-or-pay exposure under such an approach? To other factors?

4. Is the question of availability of transportation service predominantly one of access (i.e., denial of access to an actual or potential competitor in a common market)? Or is it one of appropriate rate structures for regulated utilities (i.e., a question of structuring rates so that the regulated utility will have appropriate incentives to offer desired services within its service territory)? How should the Commission respond if the situation of a pipeline appears to be some of both?

Commenters are reminded that there are two other related issues that will be addressed in the next four to six weeks dealing with two other broad areas of pipeline regulation: (1) Rate structures and design, and (2) the financial implications for regulated pipelines (*e.g.*, business risks and rates of return) of the transition towards competitive wellhead pricing. These topics will be addressed in greater detail at a later date, but we do not wish to foreclose commenters' opportunity to discuss these topics as they relate to the subject of this portion of the NOI.

IV. Request for Public Comments

A. Procedures for filing written comments

The Commission invites all interested persons to submit written comments, data, views or arguments on issues raised in this Notice. To the extent that several groups or individuals may have similar interests, they are encouraged to file joint comments.

All comments should be received by the Commission prior to 4:30 p.m. EST on February 4, 1985. Comments should be submitted to the Secretary, Federal Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and should reference Docket No. RM85–1–000. An original and 14 copies should be filed.

All comments will be placed in the public file which has been established in this docket and which is available for public inspection in the Commssion's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during regular business hours. Copies of comments will be available for purchase.

B. Public hearing

A public conference will be convened on February 20, 1985. The time, location and format will be noticed in the **Federal Register** at a later date.

(Natural Gas Act, as amended, 15 U.S.C. 717–717(2); Natural Gas Policy Act, 15 U.S.C. 3301 *et seq.*)

List of Subjects

18 CFR Part 157

Administrative practice and procedures, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Interstate Gas Pipelines filing Initial Reports of End-User Transportations Pursuant to section 157.209(g)(1) from August 5, 1983 through October 31, 1984.

	Total transportations (ST dockets)	Transportations with AIC
Pipelines using AIC:		
1. ANR Pipeline Co. (Michigan Wisconsin)	58	7
2. Arkansas Louisiana Gas Co	4	1
3. Colorado Interstate Gas Co	9	6
4. National Fuel Gas Supply Corp	32	21
5. Natural Gas Pipeline Co. of America	7	7
6. Northern Natural Gas Co	22	10
7. Northwest Central Pipeline Corp	12	4
8. Northwest Pipeline Corp	5	3
9. Panhandle Eastern Pipe Line Co	48	4
10. Tennessee Gas Pipeline Co	5	5
11. Texas Gas Transmission Co	6	5
12. Transcontinental Gas Pipe Line Corp	32	1
Subtotal	240	74
Pipelines Not Using AIC:		
1. Columbia Gas Transmission Corp	159	
2. Consolidated Gas Supply Corp	6	
3. Michigan Consolidated Gas Co	1	
4. Mid Louisiana Gas Co	1	
5. Mountain Fuel Supply Co	1	
6. Texas Eastern Transmission Corp	1	
7. United Gas Pipe Line Co	5	
Subtotal	177	
Total	417	74

[FR Doc. 84–33997 Filed 12–31–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 83N–0365]

Cream Cheese; Termination of Consideration of the Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of amending the U.S. standard of identity for cream cheese based on the "Recommended International Individual Standard for Cream Cheese" (Codex Standard No. C–31) because there is neither sufficient interest nor need to warrant proposing amendment of the U.S. standard for cream cheese.

FOR FURTHER INFORMATION CONTACT: Johnnie G. Nichols, Center for Food Safety and Applied Nutrition (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0101.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 15, 1983 (48 FR 55752), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard and to comment on the desirability of and need for amending the U.S. standard of identity for cream cheese in 21 CFR 133.133. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Comittee of Government Exports on the Code of Principles Concerning Milk and Milk Products, a subsidiary body of the Codex Alimentarius Commission. In that notice the agency commented that amendment of the standard of identity would not be proposed if the comments received did not support these actions.

Six letters of comment were received in response to the advance notice of proposed rulemaking. None of the comments supported amendment of the U.S. standard of identity for cream

cheese based on the Codex standard. However, one comment suggested amendment of the standard of identity to provide for the use of reduced lactose whey, reduced minerals whey, and whey protein concentrate in addition to the fluid, concentrated, dry and reconstituted forms of cheese whey already permitted by the standard to adjust the moisture content of the cream cheese. The comment stated that the suggested amendment would permit the use of recently recognized forms of whey (21 CFR 184.1979a, 184.1979b, and 184.1979c) and would be in the best interest of consumers by providing for the incorporation of additional related, economical, and nutritious whey products. FDA has considered this suggestion, but is not proposing amendment of the standard of identity for cream cheese because the comment did not provide adequate support demonstrating the need for and the propriety of using additional whey products.

Having considered the comments received, FDA has concluded that, at this time, there is neither sufficient interest nor need to warrant proposing amendment of the U.S. standard of identity for the cream cheese under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

List of Subjects in 21 CFR Part 133

Cheese; Food standards.

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of amending the U.S. standard of identity for cream cheese based on the Codex standard. This action is without prejudice to further consideration of amending the U.S. standard of identity for cream cheese upon appropriate justification.

FDA will inform the Technical Secretary for the Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: December 18, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-34006 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 133

[Docket No. 83N-0367]

Cottage Cheese and Dry Curd Cottage Cheese; Termination of Consideration of the Codex Standard

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of amending the U.S. standards of identity for cottage cheese and dry curd cottage cheese based on the "Recommended International Individual Standard for Cottage Cheese, Including Creamed Cottage Cheese" (Codex Standard No. C-16) because there is neither sufficient interest nor need to warrant proposing amendment of the U.S. standards for cottage cheese and dry curd cottage cheese.

FOR FURTHER INFORMATION CONTACT: Johnnie G. Nichols, Center for Food Safety and Applied Nutrition (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0101.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 15, 1983 (48 FR 55749), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard and to comment on the desirability of and need for amending the U.S. standards of identity for cottage cheese and dry curd cottage cheese in 21 CFR 133.128 and 133.129, respectively. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, a subsidiary body of the Codex Alimentarius Commission. In that notice the agency commented that amendment of the standards of identity would not be proposed if the comments received did not support these actions.

Seven letters of comment were received in response to the advance notice of proposed rulemaking. Six comments opposed amendment of the standards of identity for cottage cheese and dry curd cottage cheese. One comment suggested amendment of the standard of identity to provide for the addition of oil-free lecithin to the milk prior to curd formation to increase the yield of cottage cheese curd but did not provide adequate grounds in support of the suggestion.

Having considered the comments received, FDA has concluded that, at this time, there is neither sufficient interest nor need to warrant proposing amendment of the U.S. standards of identity for cottage cheese and dry curd cottage cheese under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

List of Subjects in 21 CFR Part 133

Cheese, Food standards.

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of amending the U.S. standards of identity for cottage cheese and dry curd cottage cheese based on the Codex standard. This action is without prejudice to further consideration of amending the U.S. standards of identity for cottage cheese and dry curd cottage cheese upon appropriate justification.

FDA will inform the Technical Secretary for the Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country, provided it complies with applicable U.S. laws and regulations.

Dated: December 19, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-34007 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[OPP-00000/P347; FRL-2742-4]

Benzene Hexachloride; Proposed Revocation of Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Revocation of Food Additive Regulation.

SUMMARY: This document: (1) Proposes the revocation of the tolerance for residues of the insecticide benzene hexachloride (BHC) in dehydrated peppers (paprika), (2) lists the action level that the EPA intends to recommend to the Food and Drug

Administration (FDA) to replace this tolerance once the rule revoking the tolerance is final, and (3) lists EPA's recommendations to FDA regarding action levels to be set to replace existing action levels for processed foods and feed for which no food additive regulations were established. This proposed rule was initiated by the Environmental Protection Agency.

DATE: Written comments, identified by the document control number (OPP-00000/P347), must be received on or before March 4, 1985.

ADDRESS: By mail, submit comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail: Mary Waller, Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-7700).

SUPPLEMENTARY INFORMATION: On October 19, 1976, the Environmental Protection Agency (hereafter, the Agency) published the "Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Pesticide Products Containing BHC" after determining that pesticide products containing BHC met or exceeded the risk criteria for determination of unreasonable adverse effects as set forth in 40 CFR 162.11(a)(3). In this RPAR notice the Agency stated that it was aware of several feeding studies involving BHC and various BHC isomers which induced statistically significant oncogenic effects in both mice and rats given oral doses of these compounds. (Technical grade BHC is primarily composed of the alpha, beta, gamma and delta isomers of the BHC molecule.) The RPAR notice, published in the Federal Register of October 19, 1976 (41 FR 46024), provides a brief summary of the evidence regarding the oncogenic effects of BHC.

On September 1, 1976, the Hooker Chemical and Plastics Corporation of Niagra Falls, New York, the principal domestic producer of BHC, requested voluntary cancellation of its BHC registrations pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended. A notice of voluntary cancellation was published in the Federal Register of October 19, 1976 (41 FR 46031).

In order to eliminate all others uses of BHC in the United States, the Agency asked all BHC registrants to cancel their BHC products or to amend their products by replacing the non-gamma BHC isomer content of their products with lindane (gamma isomer). In a notice published in the Federal Register of July 21, 1978 (43 FR 31432), the Agency stated that all BHC registrants had complied with the request and that the Agency had terminated the RPAR. The Agency further stated that once the amendments were accepted, the original BHC product containing non-gamma BHC isomers could not be manufactured, sold or distributed in the United States.

The food additive regulation established in 21 CFR 193.35 for the residues of BHC in dehydrated peppers (paprika) was not revoked concurrently with the cancellation of the pesticide registration because of the pesticide's persistence in the evironment and the resultant expectation that BHC residues would be present in this commodity for a significant time period. In addition, FDA established action levels for unavoidable residues of BHC occurring in certain processed food and feed that had no established food additive regulations for BHC.

To handle the issue of persistent chemicals, the EPA developed the "Policy Statement On Revocation of Tolerances for Cancelled Pesticides" (47 FR 452956, September 29, 1982). This policy statement was a joint agreement between the EPA, USDA, and the FDA. The policy statement discussed the mechanism to be used when replacing formal tolerances of persistent pesticides with action levels. These action levels would cover unavoidable residues occurring in the U.S. food supply as a result of environmental contamination from past legal usage of the pesticide. The policy statement detailed the factors that EPA would consider when setting appropriate action levels. These same factors would be used to lower the action levels as subsequent surveillance data, reviewed periodically, indicated that the residue levels found in the environment had dissipated further.

Based on the above facts and the guidance provided in the policy statement, the Agency now proposes the revocation of the food additive regulation in 21 CFR 193.35 for BHC in dehydrated peppers (paprika). The Agency proposes to recommend an action level to replace this tolerance. In addition, the Agency intends to recommend that certain existing action levels for food and feed additives be lowered.

In accordance with the policy statement, the Agency considered certain factors during its review to determine the appropriate action levels. The first factor considered was the requirement that the action level be set at a limit sufficient to protect the public health while taking into account the extent to which the pesticide cannot be avoided in the production of food and feed commodities. Based on the fact that all of the action levels are lower or equal to the current food additive regulation or existing action levels for BHC on processed food or feed, the action levels will reduce the maximum allowable exposure to residues of BHC.

The second factor considered by the Agency was the surveillance data supplied by the FDA and USDA to determine the anticipated unavoidable residue levels for BHC. Based on surveillance data on domestic and imported commodities for the years 1977, 1978, and 1979, the Agency concluded that only a small percentage of the tested samples exhibited measurable residues of BHC and only in rare instances would commodities exceed the action levels.

The third factor considered by the Agency was the possibility of recommending that action levels be set by crop groups in accordance with the crop grouping regulation published in the Federal Register of June 29, 1983 (48 FR 29855). The Agency has chosen in this case to recommend action levels on a crop by crop basis in order to avoid recommending action levels for crop groups that might inadvertently include crops that previously did not have a tolerance or existing action level for BHC.

Finally, the policy statement requires that consideration be given to harmonizing EPA-recommended action levels with the international pesticide residue limits recommended by the Codex Alimentarious Commission (Codex). Since there are no Codex limits for BHC, this factor was not relevant.

The following action level, expressed in parts per million (ppm), will be recommended to FDA to replace the food additive regulation in 21 CFR 193.35 for restdues of BHC:

Commodity	Tolerance (ppm) BHC	Recommended action level (ppm)
Dehydrated peppers (paprika)	5	0.05

The following acting levels, expressed in parts per million (ppm), will be recommended to FDA to replace existing action levels for residues of BHC in processed food and feed:

Commodities	Existing action levels BHC (ppm)	Recommended action levels (ppm)
Animal feed, processed	0.1	0.05
Butter (fat basis)	0.3	0.3
Dairy products (fat basis) manufactured excluding low-fat dairy products	0.3	0.3

Interested persons are invited to submit written comments on the proposal to revoke the food additive regulation in 21 CFR 193.35 for residues of BHC in dehydrated peppers (paprika). Comments must bear a notation indicating the document control number, [OPP-00000/P347]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Va., between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Room 236, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed rule is not a major rule, i.e., it will not have an annual effect on the economy of greater than $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. Revocation of the food additive regulation for BHC on dehydrated peppers should aid U.S. enterprises by eliminating any unfair advantage that foreign enterprises may have gained through the continuance of this regulation.

This proposed rule has been submitted to the Office of Management and Budget as required by EO 12291.

Regulatory Flexibility Act

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

As this regulation is intended to prevent sale of foodstuffs primarily where the subject pesticide has been used in an unregistered or illegal manner, it is anticipated that little or no economic impacts would occur at any level of business enterprises.

Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: December 14, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 193—[AMENDED]

§ 193.35 [Amended]

Therefore, it is proposed that 21 CFR Part 193 be amended by removing § 193.35.

(Sec. 409(h), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)).

[FR Doc. 84-33329 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[08-84-11]

Drawbridge Operation Regulations; Mermentau River and Superior Oil Canal, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulations governing the operation of the following two drawbridges.

(1) The swing span bridge over the Mermentau River, mile 7.1, on LA82 at Grand Chenier, Cameron Parish, Louisiana.

(2) The swing span bridge over the Superior Oil Canal, mile 6.3 on LA82 between Grand Chenier and Pecan Island, Cameron Parish, Louisiana.

This change would require that at least four hours advance notice be given for an opening of the draw for the Mermentau River bridge from 9 p.m. to 5 a.m. and for the Superior Oil Canal bridge from 6 p.m. to 6 a.m. Outside these hours, the bridges would open on signal. Presently, the Mermentau River bridge opens on signal at all times, while the Superior Oil Canal bridge is on 12 hours advance notice from 9 p.m. to 5 a.m. and opens on signal outside these hours.

This proposal is being made because of the infrequent requests to open the draws during the prescribed advance notice periods. This action should relieve the bridge owner of the burden of having persons constantly available at the bridges to open the draws during the proposed advance notice periods, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before February 19, 1985.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other materials referenced in this notice will be available for inspection and coping in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

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

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Proposed Regulations

Vertical clearance of the Mermentau River bridge in the closed position is 13.1 feet above high water and 16.8 feet above low water, while that of the Superior Oil Canal bridge is 8.0 feet and

12.0 feet for the respective water levels. Clearance in the open position is unlimited. Waterway traffic through the Mermentau River bridge predominately is to service offshore oil and gas production platforms. That through the Superior Oil Canal bridge is to service the oil fields to the north. Data submitted by the LDOTD show that this traffic is infrequent during the proposed four hours advance notice periods, respectively, as noted below:

(1) *Mermentau River.* In 1983, for the proposed advance notice period from 9 p.m. to 5 a.m., when the bridge now opens on signal, there were 293 bridge openings—an average of 24.0 openings per month on an average of less than one opening per day. In 1982, 1981 and 1980, there were 457, 331 and 332 bridge openings, respectively, for the same time period, more than in 1983 but still infrequent. In 1982, construction work upstream accounted for the higher number of openings.

(2) *Superior Oil Canal.* In 1983, for the proposed advance notice period from 6 p.m. to 6 a.m., when the bridge now opens on 12 hours advance notice from 9 p.m. to 5 a.m. and on signal for the remaining four hours, there were 157 bridge openings—an average of 13.0 openings per month on an average of less than one opening every two days. In 1982, 1981 and 1980, there were 332,174 and 326 bridge openings, respectively, for the same period, more than in 1983 but still infrequent.

Considering the few openings involved, the Coast Guard feels that for the Mermentau River bridge, the current on site attendance during the prescribed advance notice period is not warranted and can be eliminated with the substitution of the four hours advance notice for an opening. Similarly for the Superior Oil Canal bridge, the present advance notice period can be extended by four hours to eliminate the current on site attendance during these hours, with the substitution of the four hours advance notice for an opening for the entire period as extended. This will allow relief to the bridge owner, while still reasonably providing for the few opening needs of navigation.

The advance notice for opening the draws would be given by placing a collect call at any time to the LDOTD District Office at Lake Charles. From ashore, telephone (318) 439–2406. From afloat, this call may be made by radiotelephone through a public coast station.

The LDOTD originally had proposed the subject advance notice operation for these two bridges as part of a broader proposed rule covering nine drawbridges (48 FR 26625; 9 June 1983) subsequently withdrawn. The few comments received on that proposal for the two bridges involved: (1) Concern that the 1982 bridge opening statistics, used to illustrate the case, were understating the bridge operations vis-a-vis the two prior years and, (2) concern about opening the bridges for an emergency passage, when less than four hours notice could be given.

A review of the bridge opening statistics given above for the two bridges, for the four years 1980 through 1983, shows that the 1982 bridge openings actually were more than the other years, allaying the concern that the 1982 data were understating the operation. To allay the other concern, the LDOTD recognizes that there may be an unusual occasion, during the advance notice periods, to open the bridges on considerably less than four hours notice for a bonafide emergency or to operate the bridges on demand for an isolated but temporary surge in waterway traffic, and has comitted to doing so if such an event should occur.

Economic Assessment and Certification

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

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that there are few vessels requiring an opening of the two bridges during the proposed advanced notice periods. As evidenced by the bridge statistics previously cited for these periods, the Mermentau River and Superior Oil Canal bridge openings have been infrequent, with the 1983 openings showing a decline from those of 1982, 1981 and 1980. In 1983, the Mermentau River bridge averaged less than one opening per day, while the Superior Oil Canal bridge averaged less than one every two days. Those vessels needing an opening should reasonably be able to give four hours notice by placing a collect call to the bridge owner at any time, from ashore or afloat. Affected mariners are mainly repeat users and scheduling their arrival at the bridges at the appointed time should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entitites.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations.

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations by adding a new § 117.480 and revising § 117.495 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.480 Mermentau River.

The draw of the S82 bridge, mile 7.1 at Grand Chenier, shall open on signal; except that, from 9 p.m. to 5 a.m. the draw shall open on signal if at least four hours notice is given.

§ 117.495 Superior Oil Canal.

The draw of the S82 bridge, mile 6.3 in Cameron parish, shall open on signal; except that, from 6 p.m. to 6 a.m. the draw shall open on signal if at least four hours notice is given.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 17, 1984.

T. T. Matteson,

Acting District Commander, Eighth Coast Guard District.

[FR Doc. 84–33852 Filed 12–31–84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2746-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking and extension of the public comment period.

SUMMARY: On September 28, 1984 (49 FR 38297), the USEPA reproposed rulemaking on the Indiana Lead State Implementation Plan (SIP). In that notice, USEPA stated that the State of Indiana needed to submit enforceable emission limitations for certain sources. An extension of the public comment period was requested by the State of Indiana to submit these enforceable emission limitations, and on October 29, 1984, the State submitted a draft of these limitations.

The State informed USEPA that it plans to submit emission limitations sufficient to protect the lead standard by January 5, 1985. This submission must also contain approvable compliance

methodologies for these limits. Comments on the emission limits and compliance methodologies to be submitted by the State and on all other elements of the Indiana Lead Plan are due by January 15, 1985.

DATES: The State of Indiana plans to submit its comments, emission limitations, and compliance methodologies by January 5, 1985. Comments on Indiana's submittal and other elements in the Indiana Lead SIP must be submitted to USEPA by January 15, 1985.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604.

Copies of the SIP revision are available at the following addresses for review (It is recommended that you telephone Anne E. Tenner, at (312) 886-6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V (5 AR-26), 230 S. Dearborn Street, Chicago, Illinois 60604

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner (312) 886-6036.

SUPPLEMENTARY INFORMATION: The State of Indiana on August 19, 1983, submitted a draft State Implemenation Plan (SIP) for lead. USEPA parallel processed this submittal in order to meet the schedule agreed to between the USEPA and Natural Resources Defense Council, Inc. (NRDC) and approved by the court on July 26, 1983.[1] Although the State believed that this submission provided for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for lead, USEPA determined that it was inadequate. Consequently, on December 29, 1983 (48 FR 57318), USEPA proposed disapproval of the entire Indiana Lead, Plan, with the exception of the lead New Source Review Program, which was proposed for approval. Since publication of this Notice of Proposed Rulemaking, the State of Indiana submitted additional information to satisfy the major deficiencies in the Lead Plan. These additional State submittals and technical information were submitted to USEPA on the following dates: October 18, 1983, February 20, 1984, March 1, 1984, April 13, 1984, May 4, 1984, May 7, 1984, May 21, 1984, and June 8, 1984.

On September 28, 1984 (49 FR 38297), USEPA proposed to approve, with the exception of the lead new source review program, the entire Indian Lead Plan.[2] This proposed approval is: (1) Based on all of the technical information submitted by the State and (2) with the understanding that the State will submit, prior to the close of the public comment period, operating permits that contain emission limits and operating requirements for the companies subject to Indiana's strategy. These limits and requirements must be State enforceable and consistent with the modeled SIP inventory and attainment demonstration.

The State of Indiana requested as extension of the public comment period for submitting these enforceable emission limitations. On October 29, 1984, the State submitted a draft of these limitations, which it is planning to propose for public comment. They are:

Facility	Location	Emission limits tons of lead/ year
East Chicago Incinerator	East Chicago	0.620
USS Lead Refinery	do	1.240
Inland Steel	do	24.400
Jones & Laughlin Steel (now LTV Steel).	do	15.265
Quemetco	Indianapolis	4.532
Hammond Lead (Halex)	Hammond	1.540
Hammond Lead (Halstab)	do	0.283

All of the above sources, except for the East Chicago Incinerator and USS Lead, additionally have individual annual emission limits for each separate lead emission point at each facility. The sum of these individual emission limits approximately equals the plant-wide limit. Inland and LTV Steel have short term limits as well. These individual emission limits are available for public review at the USEPA Region V and State locations listed in the **"ADDRESS"** Section of this notice.

USEPA has examined all of these emission limits and has found that they are consistent with those in the modeled attainment demonstration submitted to USEPA on May 4, 1984, upon which USEPA based its proposed approval on September 28, 1984. However, not all the operating permits contain short-term limits sufficient to protect the lead standard on a calendar quarter basis, nor do any of them contain compliance methodologies for these limits.[3]

The State has informed USEPA that it is planning to hold a public hearing on the aforementioned emission limits on or about January 2, 1985, at 1330 W. Michigan Street, in Indianapolis. Today, USEPA is proposing to approve these limits, if the State modifies them such that they protect the NAAQS for lead on a quarterly basis. The State has several options for modifying these limits to meet this requirement. If the State changes these limits into calendar quarter limits (or any other long term limit which does not exceed a calendar quarter, such as monthly, daily, etc.), then it needs to submit a State approved methodology for determining compliance on that basis. Alternatively, it can submit, as a part of its enforceable plan, the short-term emission limits used to derive these annual limits, i.e., pounds of lead per million British Thermal Units, pounds of lead per ton of product, etc. Under either alternative, it needs to submit its methodology for determining compliance for fugitive sources. For sources which use controls such as hoods, this could be done by specifying the parameters of their capture systems or standards of performance for the capture efficiency. For fugitive sources such as storage piles, road dust reentrainment, etc., this could include an enforceable program which the sources would follow to control these emissions. As referred to in USEPA's September 28, 1984, proposal, for USEPA to be able to approve the State's lead plan, it must contain enforceable limits which protect the lead NAAQS.

The State has informed USEPA that it plans, by January 5, 1985, to submit enforceable emission limitations and a schedule for submittal of the State's compliance methodologies to implement these limits; either those methodologies mentioned above or others which the State determines assure the attainment and maintenance of the lead NAAQS in Indiana. USEPA cannot approve the

[1] The Court's Order approved the settlement of the suit brought by NRDC seeking prompt promulgation of the incomplete lead SIPs for over half the states *NRDC v. Ruckelshaus*, No. 82-2137 (D.D.C. 1982). USEPA is currently discussing with NRDC further changes of the court ordered schedule for completion of Indiana's lead SIP, as well as several other states. Any agreement reached between the parties will be subject to District Court review and final decision.

[2] USEPA origially proposed to approve the Indiana lead new source review program based on a draft regulation. The regulation as finally submitted contained technical deficiencies. Indiana is in the process of correcting these technical deficiencies, and USEPA will proppose rulemaking on this portion of the Indiana plan in the future.

[3] USEPA recognizes that a method of determining lead from stacks is contained in 40 CFR Part 60, Appendix A, Method 12, and that this method is applicable where the State does not specify an alternate method. However, this method is not applicable to long term emission limits, such as the annual limits in certain of Indiana's present permits, or to non-stack lead sources, such as from roof monitors, storage piles, etc.

Indiana lead plan until Indiana submits its compliance methodologies for implementing its lead emission limits.

USEPA is providing an additional 10 days from the expected date of the State submittal of its enforceable emission limits for the public to comment on the plan, as submitted, and on all the other elements in the Indiana Lead Plan, as was proposed by the USEPA on September 28, 1984. Thus, these comments are due by January 15, 1985. USEPA will review the State's plan, these comments, and the State's enforcement methodologies for implementing the plan and, based on these submittals, will take final rulemaking action on the State's plan.

USEPA recognizes that this schedule may seem tight. There are several reasons why we, nonetheless, believe that this approach is reasonable and necessary. First, the NRDC Order requires USEPA to act expeditiously. Second, it is probable that the draft emission limits, which have been available to the public since USEPA's reproposal on September 28, 1984, will be the underlying basis for the final plan. Third, the States is simultaneously holding a public comment period and hearing on the plan it intends to submit, and the public will have access to this plan during this period. Finally, USEPA believes that those parties most likely to provide additional public comment are the State, NRDC, and the affected lead sources, all of which will be in a favorable position to submit comments promptly.

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

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

Dated: December 14, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84-33965 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-00000/P346; FRL-2742-3]

Benzene Hexachloride; Proposed Revocation of Tolerances

AGENCY: Environmental Protection Agency.

ACTION: Proposed revocation of tolerances.

SUMMARY: This document (1) proposes the revocation of tolerances for residents of the insecticide benzene hexachloride (BHC), (2) lists the action levels that the EPA intends to recommend to the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) to replace the tolerances once the rule revoking the tolerances is final, and (3) lists EPA's recommendations to FDA and USDA regarding action levels to be set to replace existing action levels for food and feed commodities for which no tolerances were established. This proposed rule was initiated by the Environmental Protection Agency.

DATE: Written comments, identified by the document control number [OPP-00000/P346], must be received on or before March 1, 1985.

ADDRESS: By mail, submit comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

By mail: Mary Waller, Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-7700).

SUPPLEMENTARY INFORMATION: On October 19, 1976, the Environmental Protection Agency (hereafter, the Agency) published the "Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Presticide Products Containing BHC" after determining that pesticide products containing BHC met or exceeded the risk criteria for determination of unreasonable adverse effects as set forth in 40 CFR 162.11(a)(3). In this RPAR notice the Agency stated that it was aware of several feeding studies involving BHC and various BHC isomers which induced statistically significant oncogenic effects in both mice and rats given oral doses of these compounds. (Technical grade BHC is primarily composed of the alpha, beta, gamma, and delta isomers of the BHC molecule.) The RPAR notice, published in the **Federal Register** of October 19, 1976 (41 FR 46024), provides a brief summary of the evidence regarding the oncogenic effects of BHC.

On September 1, 1976, the Hooker Chemical and Plastics Corporation of Niagara Falls, New York, the principal domestic producer of BHC, requested voluntary cancellation of its BHC registrations pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended. A notice of voluntary cancellation was published in the **Federal Register** of October 19, 1976 (41 FR 46031).

In order to eliminate all other uses of BHC in the United States, the Agency asked all BHC registrants to cancel their BHC products or to amend their products by replacing the non-gamma BHC isomer content of their products with lindane (gamma isomers). In a notice published in the **Federal Register** of July 21, 1978, (43 FR 31432), the Agency stated that all BHC registrants had complied with the request and that the Agency had terminated the RPAR. The Agency further stated that once the amendments were accepted, the original BHC product containing non-gamma BHC isomers could not be manufactured, sold or distributed in the United States.

The tolerances established for the residues of BHC not revoked concurrently with the cancellation of the pesticide registration because of the pesticide's persistence in the environment and the resultant expectation that BHC residues would be present in raw agricultural commodities for a significant time period. In addition, FDA established action levels for unavoidable residues of BHC occurring in certain food and feed commodities that had no established tolerance for BHC.

To handle the issue of persistent chemicals, the EPA developed the "Policy Statement On Revocation of Tolerances For Cancelled Pesticides" (47 FR 452956, September 29, 1982). This policy statement was a joint agreement between the EPA, USDA and the FDA. The policy statement discussed the mechanism to be used when replacing formal tolerances of persistent pesticides with action levels. These action levels would cover unavoidable residues occurring in the U.S. food supply as a result of environmental contamination from past legal usage of the pesticide. The policy statement detailed the factors that EPA would consider when setting appropriate action levels. These same factors would be used to lower the action levels as subsequent surveillance data, reviewed periodically, indicated that the residue

levels found in the environment had dissipated further.

Based on the above facts and the guidance provided in the policy statement, the Agency now proposes to revoke all existing tolerances in 40 CFR 180.140 for the residues of BHC and to recommend action levels to replace these tolerances. In addition, the Agency intends to recommend that certain existing action levels for raw agricultural commodities be lowered.

In accordance with the policy statement, the Agency considered certain factors during its review to determine the appropriate action levels. The first factor considered was the requirement that the action level be set at a limit sufficient to protect the public health while taking into account the extent to which the pesticide cannot be avoided in the production of agricultural commodities. Based on the fact that all except one of the action levels to be recommended are lower or equal to the current tolerances or existing action levels for BHC, the action levels will reduce the maximum allowable exposure to residues of BHC. In the case of the one exception, the Agency intends to recommend an action level higher than the current BHC tolerance of 0.01 ppm for pecans which is not consistent with the current limits of detection which are 0.02 ppm for each of the individual alpha, beta, gamma and delta isomers of BHC. The Agency intends to recommend a 0.05 part per million (ppm) action level for pecans which is consistent with the lowest action level that has been recommended for other commodities.

The second factor considered by the Agency was the surveillance data supplied by the FDA and USDA to determine the anticipated unavoidable residue levels for BHC. Based on surveillance data on domestic and imported commodities for the years 1977, 1978, and 1979, the Agency concluded that only a small percentage of the tested samples exhibited measurable residues of BHC and only in rare instances would commodities exceed the action levels.

The third factor considered by the Agency was the possibility of recommending that action levels be set by crop groups in accordance with the crop grouping regulation published in the **Federal Register** of June 29, 1983 (48 FR 29855). The Agency has chosen in this case to recommend action levels on a crop by crop basis in order to avoid recommending action levels for crop groups that might inadvertently include crops that previously did not have a tolerance or existing action level for BHC.

Finally, the policy statement requires that consideration be given to harmonizing EPA-recommended action levels with the international pesticide residue limits recommended by the Codex Alimentarious Commission (Codex). Since there are no Codex limits for BHC, this factor was not relevant.

The following action levels, expressed in parts per million (ppm), will be recommended to FDA and USDA to replace tolerances for residues of BHC:

Commodities	Tolerances (ppm) BHC	Recommended action levels (ppm)
Apples	1	0.05
Apricots	1	0.05
Asparagus	1	0.05
Avocados	1	0.05
Broccoli	1	0.05
Brussels sprouts	1	0.05
Cauliflower	1	0.05
Cabbage	1	0.05
Celery	1	0.05
Cherries	1	0.05
Collards	1	0.05
Cucumbers	1	0.05
Eggplants	1	0.05
Grapes	1	0.05
Kale	1	0.05
Kohlrabi	1	0.05
Lettuce	1	0.05
Melons	1	0.05
Mustard greens	1	0.05
Nectarines	1	0.05
Okra	1	0.05
Onions (dry bulb only)	1	0.05
Peaches	1	0.05
Pears	1	0.05
Pecans	0.01	0.05
Peppers	1	0.05
Plums (fresh prunes)	1	0.05
Pumpkins	1	0.05
Spinach	1	0.05
Squash (summer & winter)	1	0.05
Strawberries	1	0.05
Swiss chard	1	0.05
Tomatoes	1	0.05

The following action levels, expressed in parts per million (ppm), will be recommended to FDA and USDA to replace existing action levels for residues of BHC.

Commodities	Existing action levels BHC (ppm)	Recommended action levels (ppm)
Artichokes	0.5	0.05
Barley, grain (animal feed)	0.1	0.05
Barley, grain (human food)	0.1	0.05
Beans	0.5	0.05
Beets	0.5	0.05
Blackberries	0.5	0.05
Blueberries	0.5	0.05
Boysenberries	0.5	0.05
Carrots	0.5	0.3
Citrus fruits	0.5	0.05
Cocoa beans (whole raw beans)	0.5	0.5
Corn, fresh sweet	0.5	0.05
Corn grain (animal feed)	0.5	0.05
Corn grain (human food)	0.1	0.05
Cranberries	0.5	0.05
Currants	0.5	0.05
Dewberries	0.5	0.05
Eggs	0.5	0.05
Elderberries	0.5	0.05
Endive	0.5	0.05
Fat of cattle, calves, chickens, ducks, geese, goats, horses, rabbits, sheep, swine, and turkeys	0.3	0.3
Figs	0.5	0.05
Frog legs (edible portion)	0.5	0.3
Gooseberries	0.5	0.05
Guavas	0.5	0.05
Hays (animal feed)	0.1	0.05
Huckleberries	0.5	0.05
Loganberries	0.5	0.05
Mangoes	0.5	0.05
Milk (fat basis) raw unpasteurized	0.3	0.3
Milo sorghum (animal feed)	0.1	0.05
Milo sorghum (human food)	0.1	0.05
Oats, grain (animal feed)	0.1	0.05
Oats, grain (human food)	0.1	0.05
Peas	0.5	0.05
Pineapples	0.5	0.05
Potatoes	0.5	0.05
Quinces	0.5	0.05
Radishes	0.5	0.05
Raspberries	0.5	0.05
Rice, grain	0.1	0.05
Rutabagas	0.5	0.05
Rye grain (human food)	0.1	0.05
Rye grain (animal feed)	0.1	0.05
Sweet potatoes	0.5	0.05
Turnips	0.5	0.05
Wheat grain (human feed)	0.1	0.05
Wheat grain (animal feed)	0.1	0.05

Any person who has registered or submitted an application under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended for the registration of a pesticide which contains BHC may request within 30 days after publication of this document in the **Federal Register** that this proposal to revoke the BHC tolerances be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposal to revoke all tolerances for BHC listed in 40 CFR 180.140. Comments must bear a notation indicating the document control number, [OPP-00000/P346]. These copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Va., between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Room 236, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulation is "Major" and therefore subject to the requirements of

a Regulatory Impact Analysis. The Agency has determined that this proposed rule is not a major rule, i.e., it will not have an annual effect on the economy of greater than $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. Revocation of the tolerances for BHC should aid U.S. enterprises by eliminating any unfair advantage that foreign enterprises may have gained through the continuance of these tolerances.

This proposed rule has been submitted to the Office of Management and Budget as required by EO 12291.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1165, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

As this regulation is intended to prevent sale of foodstuffs primarily where the subject pesticide has been used in an unregistered or illegal manner, it is anticipated that little or no economic impacts would occur at any level of business enterprises.

Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 14, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 180—[AMENDED]

§ 180.140 [Removed]

Therefore, it is proposed that 40 CFR Part 180 be amended by removing § 180.140.

(Sec. 408(e) and (m), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e) and (m)))

[FR Doc. 84-33331 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50518; TSH FRL 2563-5]

Benzoic Acid, 3,3'-Methylenebis [6-Amino-, Di-2-Propenyl Ester; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance which was the subject of premanufacture notice (PMN) P-82-438. The Agency believes that this substance may be hazardous and that uncontrolled manufacture, importing, processing, distribution in commerce, or use may result in significant human exposure.

DATE: Written comments should be submitted by March 4, 1985.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to:

Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS-50518. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107, at the address given above. For further information regarding the submission of comments containing confidential business information, see Unit XI of the preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720 published in the **Federal Register** of May 13, 1983 (48 FR 21722). In particular, these include the information submission requirements of section 5 (b) and (d)(1), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5 (e) and (f). If EPA does not take regulatory action under section 5, 6, or 7 to control activities on which it has received a SNUR notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are covered by TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127 and 127.8 published in the **Federal Register** of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR Part 707 published in the **Federal Register** of December 13, 1983 (48 FR 55462).

II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR Part 721, Subpart A published in the **Federal Register** of September 5, 1984 (49 FR 35011). EPA is proposing that these general provisions apply to this SNUR without change except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposed Rule

The chemical substance subject to this proposed rule is benzoic acid, 3,3'-methylene bis[6-amino-,di-2-propenyl ester (CAS 61386-02-5). It was the subject of PMN P-82-438. EPA is proposing to designate any use other than the use described in PMN P-82-438 and manufacture or processing in a manner different than that described in the PMN as significant new uses of benzoic acid, 3,3'-methylene bis[6-amino-,di-2-propenyl ester.

IV. Background

On June 14, 1982, EPA received a PMN which the Agency designated as P-82-438. EPA announced receipt of the PMN

in the Federal Register of June 25, 1982 (47 FR 27610).

The notice submitter claimed the following as confidential business information (CBI): Company name, the special chemical name, the intended use, the production volume, and information concerning processing. The Agency, believing that the proposed generic chemical name would not provide adequate specificity for this proposed rulemaking, requested that the PMN submitter relinquish its CBI claim with regard to the specific chemical identity. The PMN submitter agreed, but retained its claim for all other items of information. For purposes of clarity, this substance will be referred to by its PMN number.

Under section 14(a)(4) of TSCA, the Agency may disclose confidential information relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by the remaining claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the remaining CBI at this time. The Agency specifically requests comment on this approach for this SNUR rulemaking.

The Agency is concerned that P-82-438 may present risks to human health and the environment. The Agency is specifically concerned that exposure to P-82-438 might induce carcinogenic, hepatotoxic, teratogenic, reproductive, and neurotoxic effects in humans and may cause toxic effects in aquatic organisms. These conclusions are based primarily on structural analogy of P-82-438 with 4,4'-methylene-dianiline. Although, bioassay data on a closer structural analog, benzoic acid, 3,3'-methylenebis[6-amino-, dimethyl ester (MBMA) were also considered in assessing P-82-438's carcinogenic potential, the Agency relied primarily upon 4,4'-methylene-dianiline due to its having a more complete data base. The Agency has evaluated positive bioassays on both MBMA and 4,4'-methylenedianiline.

The Agency also believes that P-82-438 may be acutely toxic to aquatic species. This concern is, again, based upon structural analogy with 4,4'-methylenedianiline. In a response to the Interagency Testing Committee (ITC) published in the Federal Register of July 11, 1983 (48 FR 31806), the Agency concluded that the probable rapid degradation of 4,4'-methylenedianiline in the environment, coupled with low environmental releases, obviated the need for further environmental effect testing. The Agency does not believe, however, that sufficent information exists with respect to either the degradation of P-82-438 or potential releases resulting from new uses of P-82-438.

Although the Agency identified potential adverse effects of P-82-438, no action was taken during the PMN review period. This was based on the extremely low potential for human exposure or environmental release during the PMN submitter's activities described in the PMN. The PMN submitter utilizes specific, stringent controls during manufacture, processing, and use which mitigate any concerns EPA has about human exposure to or environmental release of P-82-438 during those operations. The Agency is concerned that any other use of P-82-438 would increase human exposure and environmental release to levels at which effects could occur. In addition, even if the substance were manufactured or processed for the use described in the PMN, EPA is concerned that such manufacture or processing, using different or fewer controls on human exposure and environmental release, would increase human exposure and environmental release to levels at which effects could occur. EPA has reviewed, but is unable to describe in greater detail the exposure and release concerns resulting from the proposed significant new uses because the use and related manufacturing and processing controls described in the PMN are CBI. As discussed above, EPA has decided not to release such CBI in this proposal.

Since the notice submitter has commenced commercial manufacture of the substance and submitted a notice of commencement of manufacture to EPA, the Agency has added the substance to the TSCA Chemical Substance Inventory. Other persons may undertake activities different from those of the original PMN submitter resulting in different or increased exposures. Therefore, EPA is proposing to designate any use other than the use described in PMN P-82-438 and manufacture or processing in a manner different than that described in the PMN as significant new uses so that the Agency can review those uses before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance; if necessary, action can then be taken to ensure that persons and the environment will not be exposed to levels of P-83-438 that are potentially hazardous.

V. Determination of Proposed Significant New Uses

To determine what would constitute a significant new use of this chemical substance, EPA considered relevant information about the toxicity of P-82-438, potential exposures associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential new uses might change the magnitude and duration of exposure to humans and release to the environment. Based on these considerations, EPA proposes to define the significant new uses of P-82-438 as set forth in Unit III of this preamble.

VI. Alternatives

EPA considered regulatory alternatives to a SNUR to ensure protection of human health and the environment.

1. One alternative would be to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before manufacturing, importing, or processing the substance for a use other than that described in the PMN or manufacturing or processing in a manner different from that described in the PMN. However, in this particular instance, the use of section 8(a) rather than SNUR authority has drawbacks. Small businesses would be exempt from reporting under section 8(a). In addition, if EPA received a report under section 8(a) indicating that a person intended to manufacture, import, or process the substance for any use other than the PMN use or in a different manner, the Agency could not take immediate action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substance pending development of information. Rather, in a situation such as this, EPA would have to consider regulating the substance under TSCA section 6, which would require a separate rulemaking action. Moreover, in view of the current lack of environmental and health effects data on the substance, EPA first would likely have to obtain test data on P-82-438 under section 4 of TSCA to support an action under section 6. This approach would allow unnecessary risks to human health and the environment during the time needed for data development.

2. The Agency also has the authority to regulate substances under section 6 of TSCA. However, the Agency may regulate under section 6 only if there is a

reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture "presents or will present" an unreasonable risk of injury to human health and/or the environment. There is insufficient information to perform a reasoned evaluation of the health and environmental effects of P-82-438 at this time. Therefore, the Agency cannot state with certainty that the substance presents or will present an unreasonable risk and cannot, at this time, regulate the substance under section 6.

3. The Agency is also considering creating an abbreviated review for persons who propose to employ alternative exposure controls or worker protection equipment which may provide equivalent protection. Under this approach, the significant new use would be defined as the failure to establish a program such as that described under § 721.205(a)(2)(ii) of this proposed rule or to require the use of exposure controls and/or protective equipment which provides "equivalent" protection. Although the specific significant new use described under § 721.205(a)(ii) is CBI, the Agency is proposing to divulge the specific exposure controls and protective equipment provided for by the PMN submitter to individuals having demonstrated a *bona fide* intent to manufacture, import, or process P-82-438 for the PMN use. The proposed mechanism for doing so is described in Chapter IX of this preamble. Should a person wish to employ exposure controls and/or protective equipment which provides "equivalent" protection, they would be required to notify EPA of the alternative controls to receive (in a specified time period which is shorter than 90-days) confirmation from the Agency that the protection provided by the equipment is "equivalent." If significant new use reporting would be required.

EPA invites comment on this proposal and the alternatives.

VII. Exemptions to Reporting Requirements

The Agency has codified general exemption provisions concerning SNUR reporting at § 721.19. On a case-by-case basis, the Agency may modify these provisions with specific language in Subpart B. However, in this case the Agency is proposing that § 721.19 apply in its entirety.

EPA issued its final premanufacture notification rules under 40 CFR Part 720, published in the **Federal Register** of May 13, 1983 (48 FR 21722) including § 720.36 which contained detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. On September 13, 1983 (48 FR 41132), EPA stayed the effectiveness of § 720.36, among other provisions of the PMN rule, pending further rulemaking to revise the provisions. Because § 720.36 was not in effect when EPA codified § 721.19, the Agency relied on the general definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities qualify under this exemption. Upon promulgation of a revised § 720.36, EPA intends to amend § 721.19 and § 721.205 to adopt the provisions of the revised § 720.36.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure and environmental release during manufacture and processing of the substance, EPA lacks the authority under section 12(a) of TSCA to require reporting of such manufacture or processing for a significant new use because EPA does not yet have sufficient information to make the "will present an unreasonable risk" finding necessary to regulate a substance manufactured or processed solely for export. However, persons must notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting. The term "manufacture solely for export" is defined in the PMN rule (40 CFR 720.3(s)). The term "process solely for export" is defined in the general SNUR provsions in a similar fashion. Thus persons would be exempt from reporting under this SNUR if a person manufactures (the term manufacture includes import) or processes the substance solely for export from the U.S. under the following restrictions: (1) There is no use of the substance in the U.S.; (2) processing is restricted to sites under the control of the manufacturer or processor, respectively; and (3) distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., such manufacture and processing would be for use in the U.S.

VIII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has undergone premanufacture review. When the notice submitter began manufacture of the substance, the submitter sent EPA a notice of commencement of manufacture and the substance was added to the Inventory. The notice submitter indicated that it did not intend to undertake the activities designated in this proposal as significant new uses, and EPA has no indication that the submitter has done so contrary to its original intent. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that once the chemical substance to this SNUR was added to the Inventory, it may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

If, after publication of this proposal, someone were to undertake the designated significant new uses, they could argue that the uses are ongoing at the time the rule is promulgated, and therefore not a significant new use. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new uses before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substance is manufactured, imported, or processed between proposal and promulgation for a proposed significant new use, the Agency will consider such use to be a significant new use if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who began manufacture, import, or processing for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption, and persons who commence a proposed significant new use do so at their own risk.

IX. Determining When Use Is Subject To This Rule

EPA is proposing significant new uses for P-82-438 based on the use described in the PMN which was claimed as CBI. The Agency is also proposing to keep the PMN use, and thus the significant new uses confidential in the final rule. EPA believes it is appropriate to do so in this case to protect the interests of the original PMN submitter.

The significant new uses fall into two different categories. The first is any use other than the use described in the PMN. In previous proposed SNURs, EPA has used such a significant new use designation and kept it confidential. The second is manufacture or processing for the PMN use in a manner different than that described in the PMN, i.e. using fewer or different controls on human exposure and environmental release. In previous proposed SNURs, EPA has included such significant new use designations, but never before have they been confidential. In this instance the specific controls on human exposure and environmental release used during manufacturing and processing are very closely related to the use of P-82-438. Revealing those controls could lead to disclosure of the use itself. Accordingly, all the significant new uses are being treated as confidential.

In response to the Agency's request, the PMN submitter withdrew the claim of confidentiality for the specific chemical identity of P-82-438, and it now appears in this proposed SNUR. For purposes of this SNUR, and in light of the unusual circumstances, EPA has decided to keep the significant new uses confidential and to allow persons who can show a *bona fide* intent to manufacture, import, or process P-82-438 to ask EPA whether their uses are the use described in the PMN and, therefore, whether their uses are subject to reporting. The process proposed for doing so, in paragraph (b) of the rule, is very similar to the process for establishing a *bona fide* intent to manufacture, import, or process in § 721.6 of the general provisions. In addition to showing the *bona fide* intent to manufacture, import, or process the substance, the person would identify the specific use it intends.

EPA is proposing that, if it determines that the person has a *bona fide* intent to manufacture, import, or process the substance, EPA will either tell the person that the use they intend is not the use described in the PMN and thus subject to the SNUR, or that the use is the PMN use. EPA is proposing that should a person intend to manufacture, import, or process the substance for a use not described in the PMN, that person would be required to report all aspects of that use, including manufacturing and processing controls, exposures, and releases. The Agency would not divulge any information related to manufacturing and processing controls employed by the PMN submitter. The Agency is proposing, however, that should a person intend to manufacture, import, or process the substance for the PMN use, EPA will tell the person what controls on manufacturing and processing exposure and release are described in the PMN. This information will be necessary for the person to determine whether their controls would constitute a significant new use. Should a person wish to employ manufacturing and processing controls other than those described in the PMN, the person would be required to file a SNUR notice. EPA has chosen this approach because a person who intends to manufacture, import, or process the substance for a use not described in the PMN would be required to report on all aspects of that use, including manufacturing and processing controls, exposures, and releases, and does not need to know the controls described in the PMN which apply only to the PMN use. However, if the person intends to manufacture, import, or process the substance for the PMN use, the person must know what controls were described in the PMN to determine whether its controls would constitute a significant new use.

EPA is considering two alternatives to this approach. One would be to reveal the specific significant new uses in the final rule. The other would be to reveal the specific significant new uses to any person who can show a *bona fide* intent to manufacture, import, or process P-82-438 for any use. EPA solicits comments on all these matters.

X. Test Data and Other Information

EPA recognizes that under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health and environmental risks that may be posed by a significant new use of P-82-438, a more reasoned evaluation of the risks posed by this substance would require additional data on its potential to elicit carcinogenic, hepatotoxic, teratogenic, reproductive, and neurotoxic effects and, depending upon the proposed new use, the substance's potential effects upon aquatic organisms. The Agency believes that the results of a two-year rodent bioassay would adequately characterize possible carcinogenic effects of the substance. A more reasoned evaluation of hepatotoxicity and neurotoxic effects could be made using data generated in a 90-day subchronic study in the rodent. Similarly, rodent teratology and 2-generation reproduction studies with P-82-438 would allow a more reasoned evaluation of those risks. A 96-hour LC_{50} study conducted on daphnia would permit a more reasoned evaluation of risks to aquatic species. These studies may not be the only means of addressing the potential risks.

EPA encourages potential SNUR notice submitters to test the substance for these concerns. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e).

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. Test data should be developed and submitted according to TSCA good laboratory practices regulations at 40 CFR Part 792 (48 FR 53922, November 29, 1983).

EPA urges SNUR notice submitters to provide detailed information on human exposure and environmental release that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for this substance. The economic analysis of the possible outcomes as a result of the promulgation of this SNUR is summarized below. The Agency's complete economic analysis is available in the public file.

After promulgation of the SNUR, the Agency believes there are four possible courses of action a company could take: (1) Manufacture, import, process, and use the substance in a like manner to that described in the PMN, (2) file a SNUR notice with information showing alternative methods of controlling exposures that would mitigate EPA's health and environmental concerns, (3) file a SNUR notice with the results of recommended testing already completed or be prepared to respond to a section 5(e) order pending testing, or (4) not manufacture, import, process, use the

substance. The costs of the outcomes are summarized below.

Should a company decide to produce, process, and use the PMN substance as described in PMN, it will not incur the cost of submitting a SNUR notice.

In some circumstances it could be cost effective for a company to file a SNUR notice with data which shows that there exist alternative means of controlling exposures which could mitigate EPA's concerns. In this case the company incurs the cost of filing the SNUR notice ($1,375 to $7,950) and possibly the cost of some exposure controls which ordinarily would not be used without the existence of the SNUR. EPA costs following promulgation of the SNUR under this outcome would include reviewing the SNUR notice ($6,865) and modifying the terms of the SNUR ($6,430) if the information provided showed that EPA's concerns would be adequately addressed by use of a different type of exposure control. EPA would continue to incur enforcement costs.

It is theoretically possible that a company would file a SNUR notice which would include the test results of the recommended testing. A company would incur the cost of filing a notice ($1,375 to $7,950), performing the tests ($1,017,300 to $1,271,200), and the cost of delay (probably a delay in profits of up to three years). The cost of this option is expected to be prohibitive.

Some companies could find the cost of controlling exposures too expensive to justify production or processing. Under this outcome a company would not incur any direct costs as a result of the SNUR. The company and society could then lose benefits that would have been derived from the manufacture or processing of the PMN substance. However, that fact that the original PMN submitter intends to produce with controls and protective equipment in place indicates that at least some uses of P-82-438 would still return an acceptable profit.

The Agency has not attempted to quantify the benefits of the proposed rule or of the outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects can occur. The issuance and promulgation of the SNUR provides the benefits of reduced health risks until production or processing ceases. Futhermore, these benefits would continue regardless of the outcome chosen by industry in response to the SNUR.

XII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIII. Judical Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publishing the final rule in the **Federal Register**. The effective date will be calculated from the promulgation date.

XIV. Rulemaking Record

EPA has established a record for this proposed rulemaking (docket control number OPTS—50518). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMN for the substance.
2. The **Federal Register** notice of receipt of the PMN.
3. The proposed SNUR for the substance.
4. The toxicity support document for the proposed SNUR.
5. The economic support document for the proposed SNUR.

The Agency will accept additional materials for inclusion in the record at any time between publication of this proposed rule and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public in the OTS Public Information Office, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. E-107, 401 M St., SW., Washington, D.C.

XV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, for the reasons discussed in Unit XI of this preamble, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the rule would be under one million dollars. In addition, because of the nature of the rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers, importers, or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected is not expected to be substantial.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070-0012. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of

OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: December 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended by adding § 721.205 to read as follows:

§ 721.205 Benzoic acid, 3,3'-Methylenebis[6 amino-, Di-2-propenyl Ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance referred to by its Chemical Abstracts Service Registry Number and chemical name is subject to reporting under this section for the significant new use identified in paragraph (a)(2) of this section: Benzoic acid, 3,3'-methylenebis[6-amino-, di-2-propenyl ester, CAS 61386-02-5.

(2) The significant new uses are: (i) Any use other than the use decribed in Premanufacture Notice P-82-438.

(ii) Manufacture or processing for the use described in Premanufacture Notice P-82-438 in a manner different than that described in Premanufacture Notice P-82-438.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Determining whether a Specific Use is Subject to This Rule.* (i) A person who intends to manufacture, import, or process the chemical substance identified in paragraph (a)(1) of this section may ask EPA whether the use for which the person intends to manufacture, import, or process the substance is a significant new use under paragraph (a)(2)(i) of this section. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance.

(ii) To establish a *bona fide* intent to manufacture, import, or process the chemical substance, the person must submit to EPA:

(A) A reference to this paragraph and the name of the chemical substance identified in paragraph (a)(1) of this section.

(B) A signed statement that the person intends to manufacture, import, or process the chemical substance for commercial purposes.

(C) The specific use for which the person intends to manufacture, import, or process the chemical substance.

(D) A description of the research and development activities conducted to date with the chemical substance for the intended use.

(iii) EPA will review the information submitted by the person under this paragraph to determine whether the person has a *bona fide* intent to manufacture, import, or process the chemical substance.

(iv) If EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance, EPA will tell the person whether the use for which the person intends to manufacture, import, or process the substance is a significant new use under paragraph (a)(2)(i) of this section. If EPA tells the person that the intended use is not a significant new use under paragraph (a)(2)(i) of this section, EPA will tell the person what activities would constitute a significant new use under paragraph (a)(2)(ii) of this section.

(v) A disclosure to a person with a *bona fide* intent to manufacture, import, or process the chemical substance of the significant new uses subject to this section will not be considered public disclosure of confidential business information under section 14 opf TSCA.

(vi) EPA will anaswer an inquiry on whether a particular use is subject to this section within 30 days after receipt of a complete submission under paragraph (b)(2) of this section.

(2) [Reserved].

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

(Sec. 5, Pub. L. 94-469, 90 Stat. 2012 (15 U.S.C. 2604))

[FR Doc. 84-33973 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81 and 83

[PR Docket No. 84-1298; RM-4825; FCC 84-629]

Medical Advisory Frequencies; Proposed Use of Shared Frequencies by Limited Coast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to allow limited coast stations to use shared frequencies for transmitting medical advice to ships at sea. This action was requested by Medical Advisory Systems, Inc., a limited coast station licensee which provides around-the-clock medical advice on a contractual basis to ships and offshore platforms. The intended effect is to make available to seafarers around-the-clock medical advice regardless of their location at sea.

DATES: Comments must be received on or before January 25, 1985, and reply comments must be received on or before February 11, 1985.

ADDRESS: Federal Communications Commission, Washington, D C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, Aviation and Marine Branch, Washington, D.C. 20554; (202) 63[illegible]-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Telephone, Radio.

47 CFR Part 83

Ship stations, Telephone, Vessels, Radio.

Proposed Rule Making

In the matter of amendment of Parts 81 and 83 of the rules to provide frequencies for medical advisory communications with ships at sea, PR Docket No. 84-1298; RM-4825; FCC 84-629.

Adopted: December 14, 1984.

Released: December 19, 1984.

By the Commission.

1. The Commission has received a petition requesting that frequencies be made available for worldwide medical assistance to ships and offshore platforms. Petitioner, Medical Advisory Systems, Inc. (MAS), provides medical advice to ships at sea on a contractual basis. Its list of subscribers includes oil companies, governmental entities, foreign fleets and individuals. MAS is staffed 24 hours a day, 365 days a year with a minimum of one doctor and one communications coordinator. On request MAS will also supply inventoried medicine chests, maintain records on crew members, provide medical manuals and annually assess each subscriber's effectiveness in handling medical problems at sea.

2. In 1983 MAS was granted a developmental authorization to operate a limited coast station [1] utilizing eight

[1] A limited coast station serves the operational and business needs of ships.

high frequencies (HF) in the shared Government/non-Government spectrum between 2030 and 27500 kHz. Its subscriber vessels travel the entire globe and do not ordinarily carry medical personnel. Thus when medical emergencies arise, an immediate and reliable communications capability is imperative. MAS communicates with these vessels via its own limited coast station as well as INMARSAT satellite links and public coast stations.

3. After operating its developmental station for a year, MAS has petitioned the Commission to make frequencies available for assignment for medical advisory communications on a permanent basis. Between July 1983 and June 1984, MAS states that it handled 293 actual medical emergencies on HF. Each initial contact is said to generate an average of 2.3 follow-up calls, and between seven and eight cases remain "open" at any one time. MAS states that its case load has been doubling every six months. It argues that the availability of direct communications via its coast station not only saves critical time in many medical emergency situations but also reduces costs and avoids tying up maritime working channels for long periods. Further, the availability of this medical advisory station has permitted medical emergency preparedness drills to be conducted with vessels at sea. MAS feels that the availability of medical advisory stations will measurably improve the health and well-being of seafarers. MAS does not request an exclusive assignment of frequencies. Rather, it recommends that medical advisory traffic such as theirs be handled on channels other than those used for routine maritime communications. Additionally limited coast stations seeking to provide medical advice to ships at sea will be encouraged to use the same frequencies MAS is using provided no delays or interference result.

4. It appears that this type of communications capability would considerably improve medical assistance to the thousands of individuals in the maritime community. Rather than designate specific frequencies for medical advisory service we propose to permit the use of frequencies in the shared Government/non-Government bands allocated to the fixed or fixed and mobile services between 2030 and 27500 kHz by entities providing medical services to vessels and platforms at sea. As in MAS's case, the applicant would be required to select the appropriate frequency or frequencies and the FCC would coordinate the assignment with the U.S. Government Interdepartment Radio Advisory Committee. Because we expect that very few applicants will be interested in providing such specialized services, this case-by-case approach should allow the greatest flexibility and spectrum efficiency in fulfilling the need for maritime medical services.

5. Accordingly, we propose to amend Parts 81 and 83 of the rules to allow limited coast stations to operate on coordinated frequencies in the shared Government/non-Government bands allocated to the fixed or fixed and mobile services between 2030 and 27500 kHz for the exclusive purpose of providing ships or platforms at sea with medical advice and information. This Notice is issued under the authority contained in sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(c) and (r).

6. Under procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before January 25, 1985, and reply comments on or before February 11, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. For purposes of this non-restricted notice and comment rulemaking proceeding members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, 1.1231 of the Commission's rules, 47 CFR 1.1231.

9. Pursuant to Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposal will not have a significant economic impact on a substantial number of small entities. These proposed rules would make available a number of frequencies for medical advisory communications between ship and shore. Since use of the frequencies would be voluntary, no new equipment would be mandated and no existing equipment would be made obsolete by this action.

10. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

11. Regarding questions on matters covered in this document contact Maureen Cesaitis (202) 632-7175.

12. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA FIXED STATIONS

New § 81.373 is added to read as follows:

§ 81.373 Medical advisory frequencies.

Frequencies in the shared Government/non-Government bands allocated to the fixed or fixed and mobile services between 2030 kHz and 27500 kHz may be assigned to limited coast stations for communications related to the provision of medical treatment, medical advice or medical information. The FCC will not accept responsibility for protection of the stations from harmful interference caused by foreign operations. In the event that a complaint of harmful interference resulting from operation of these stations is received from a foreign source, the offending station must cease operation on the particular frequency concerned.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Section 83.351 is amended by adding a new paragraph (e) to read as follows:

§ 83.351 Frequencies available.

* * * * *

(e) Ship stations may communicate with limited coast stations that provide medical advisory service on the frequencies in the shared Government/non-Government bands allocated to the fixed or fixed and mobile services between 2030 kHz and 27500 kHz assigned to the limited coast station, subject to the conditions specified in § 81.373.

[FR Doc. 84-33800 Filed 12-31-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 40917-7122]

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

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

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: NOAAS issues this notice to inform the public that the Secretary of Commerce's action to preempt Oregon's ocean salmon fishery management authority after September 30, 1984, in marine waters offshore Oregon is withdrawn.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Kruse (Acting Regional Director, NMFS), 206-342-6150.

SUPPLEMENTARY INFORMATION: On September 7, 1984, NOAA began administrative proceedings under section 306(b) of the Magnuson Fisheries Conservation and Management Act to regulate the salmon fishery in Oregon's coastal marine waters. The proposed rule appears at 49 FR 35815, September 12, 1984. Following a hearing held under 50 CFR Part 619 on September 13, 1984, the Secretary issued an interim emergency rule closing the territorial sea off the coast of Oregon between Cape Falcon and Cape Blanco to fishing for salmon other than coho until September 30, 1984 (49 FR 37783, September 26, 1984). The notice accompanying the rule stated that the record of the hearing would remain open for the submission of supplementary evidence, and that the Administrative Law Judge was scheduled to issue at a later date a second set of findings regarding continued preemptive action by the Secretary in marine waters offshore of Oregon after September 30, 1984.

The Oregon Fish and Wildlife Commission adopted a document entitled Policy 30 on September 16, 1984. The policy affirms the Commission's commitment to cooperative regional management of the fishery and commits the Commission to consult with the Pacific Fishery Management Council if it proposes to take a management action inconsistent with an approved fishery management plan regulating fishing in the fishery conservation zone. Relying on Policy 30, the Assistant Administrator for Fisheries, NOAA, has determined that continued preemptive action at this time is unjustified and issues this notice withdrawing the proceedings initiated on September 7, 1984, and published at 49 FR 35815, September 12, 1984, to preempt Oregon's ocean salmon management authority in marine waters offshore of Oregon after September 30, 1984.

List of Subjects in 50 CFR Part 661

Fisheries, Indians.

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

Dated: December 24, 1984.

Joseph W. Angelovic,
Deputy Assistant Administrator for Fisheries Resource Investigations, National Marine Fisheries Service.

[FR Doc. 84-33799 Filed 12-31-84; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 1
Wednesday, January 2, 1985

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

Federal Grain Inspection Service

Designation Renewal of California Department of Food and Agriculture (CA) and Washington Department of Agriculture (WA)

AGENCY: Federal Grain Inspection Service; USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of California Department of Food and Agriculture (California) and Washington Department of Agriculture (Washington) as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (Act).

EFFECTIVE DATE: February 1, 1985.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The August 6, 1984, issue of the **Federal Register** (49 FR 31310) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that California's and Washington's designations terminate on January 31, 1985, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by September 5, 1984.

California and Washington were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on same in the October 1, 1984, issue of the **Federal Register** (49 FR 38682). Comments were to be postmarked by November 15, 1984.

No comments were received regarding California's designation renewal. One positive comment was received regarding Washington's.

FGIS has evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act (7 U.S.C. 71 *et seq.*), and in accordance with section 7(f)(1)(B), has determined that California and Washington are able to provide official services in the respective geographic areas for which their designations are being renewed. Each assigned area is the entire geographic area, as previously described in the August 6 **Federal Register** issue.

Effective February 1, 1985, and terminating January 31, 1988, California and Washington are responsible to provide official inspection, official weighing, and supervision of weighing services in their respective specified geographic area.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of any agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address:

California Department of Food and Agriculture, 1220 N. Street, Sacramento, CA 95814.

Washington Department of Agriculture, 406 General Administration Building, AX-41, Olympia, WA 98504.

(Sec. 8, Sec. 9, Pub. L. 94-582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: December 17, 1984.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 84-33719 Filed 12-31-84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Geographic Areas Currently Assigned to Denver Grain Exchange Association (CO), Lincoln Inspection Service, Inc. (NE), and Omaha Grain Inspection Service, Inc. (NE)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to Denver Grain Exchange Association, Lincoln Inspection Service, Inc., and Omaha Grain Inspection Service, Inc.

DATE: Comments to be postmarked on or before February 19, 1985.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been received and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The November 1, 1984, issue of the **Federal Register** (49 FR 43980) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently

assigned to the official agencies. Applications were to be postmarked by December 3, 1984.

Denver Grain Exchange Association and Lincoln Inspection Service, Inc., the only applicants for each respective designation, requested designation for the entire geographic area currently assigned to each of those agencies.

Two applications were received requesting designation in the Omaha area. Omaha Grain Inspection Service, Inc., requested designation for the entire geographic area currently assigned to that agency. In addition, Richard G. Probst and Darlene M. Probst, proposing to do business as Nebraska-Iowa Grain Inspection Service, also applied for designation for the entire geographic area currently assigned to Omaha Grain Inspection Service, Inc.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked no later than February 19, 1985.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 17, 1984.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 84-33720 Filed 12-31-84; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants to Perform Official Services in the Geographic Areas Currently Assigned to Sioux City Inspection and Weighing Agency, Inc. (IA) and A. V. Tischer and Son, Inc. (IA)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are Sioux City Inspection and Weighing Agency, Inc., and A. V. Tischer and Son, Inc.

DATE: Applications to be postmarked on or before February 4, 1985.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647, South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this section.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area. Sioux City Inspection and Weighing Agency, Inc. (Sioux City), 310 South Floyd, Blvd., Room 302 (03,05,06), Sioux City, IA 51101, and A. V. Tischer and Son, Inc. (Tischer), 137 10th Street, NW., P.O. Box 339, Fort Dodge, IA 50501, were each designated under the Act as an official agency to perform inspection functions on July 1, 1982.

Each agency's designation terminates on June 30, 1985. Section 7(g)(1) of the Act states, generally, that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Sioux City, in the States of Iowa, Nebraska, and South Dakota, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

In Iowa, the area shall be:

Bounded on the North by the northern Iowa State line from the Big Sioux River east to U.S. Route 59;

Bounded on the East by U.S. Route 59 south to B24; B24 east to the eastern O'Brien County line; the O'Brien County line south; the northern Buena Vista County line east to U.S. Route 71; U.S. Route 71 south to the southern Sac County line;

Bounded on the South by the Sac and Ida County lines; the eastern Monona County line south to State Route 37; State Route 37 west to State Route 175; State Route 175 west to the Missouri River; and

Bounded on the West by the Missouri River north to the Big Sioux River; the Big Sioux River north to the northern Iowa State line.

In Nebraska, Cedar, Dakota, Dixon, Pierce (north of U.S. Route 20 and west of U.S. Route 81), and Thurston Counties.

In South Dakota, the area shall be:

Bounded on the North by State Route 44 (U.S. 18) east to the State Route 11; State Route 11 south to A54B; A54B east to the Big Sioux River;

Bounded on the East by the Big Sioux River; and

Bounded on the South and West by the Missouri River.

The following locations, outside of the foregoing contiguous geographic area are presently assigned to Sioux City and are part of this geographic area assignment:

1. Charter Oak Grain & Seed and Delanty Grain Company, Charter Oak, Crawford County, Iowa.

2. Gooch Seed Mill and Ernie's Seed & Field Service, Storm Lake, Buena Vista County, Iowa.

3. Farmers Elevator Company and Feeders Mill & Elevator, Inc., Platte, Charles Mix County, South Dakota.

The geographic area presently assigned to Tischer, in the State of Iowa, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by Iowa-Minnesota State line from U.S. Route 71 east to U.S. Route 169;

Bounded on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern and southern Webster County lines to U.S. Route 169; U.S. Route 169 south to E18;

E18 west to the eastern Greene County line; the Greene County line south to U.S. Route 30;

Bounded on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; and

Bounded on the West by U.S. Route 71 north to the Iowa-Minnesota State line.

The following locations, outside of the foregoing contiguous geographic area are presently assigned to Tischer and are part of this geographic area assignment:

1. Cargill, Inc., Algona, Kossuth County.

2. Farmers Co-op Elevator, Boxholm, Boone County.

3. Big Six Elevator, Burt, Kossuth County.

4. Farmers Elevator, Goldfield, Wright County.

5. Farmers Co-op Elevator, Holmes, Wright County.

Exceptions to the described geographic area are the following locations situated inside Tischer's area which have been and will continue to be serviced by the following official agencies:

1. Farmers Co-op Company, Eagle Grove, Wright County, Iowa, by D. R. Schaal Agency, Inc.

2. Gooch Seed Mill and Ernie's Seed & Field Service, Storm Lake, Buena Vista County, Iowa, by Sioux City Inspection and Weighing Agency, Inc.

Interested parties, including Sioux City and Tischer, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning July 1, 1985, and ending June 30, 1988. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for forms and information.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 994-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 17, 1984.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 84-33721 Filed 12-31-84; 8:45 am]

BILLING CODE 3410-EN-M

Farmers Home Administration

Natural Resource Management Guide Meeting

AGENCY: Farmers Home Administration, USDA: Michigan

ACTION: Notice of meeeting.

SUMMARY: The Farmers Home Administration (FmHA) State Office located in East Lansing, Michigan, is announcing a public information meeting to discuss its draft Natural Resource Management Guide.

DATE: Meeting on January 25, 1985, 10:00 a.m. to 12:00 noon. Comments must be received no later than February 24, 1985.

ADDRESSES: Meeting location at Room 208, 1405 South Harrison Road, East Lansing, Michigan.

Written comments and further information will be addressed to: State Director, FmHA, 1405 South Harrison Road, East Lansing, Michigan 48823 (517-337-6638).

All written comments will be available for public inspection during regular work hours at the above address.

SUPPLEMENTARY INFORMATION: FmHA's Michigan State Office has prepared a draft Natural Resource Management Guide. The Guide is a brief document describing the major environmental standards and review requirements that have been promulgated at the Federal and State levels and that affect there financing of FmHA activities in Michigan. The purpose of the meeting is to discuss the Guide as well as to consider comments and questions from interested parties. Copies of the Guide can ben obtained by writing or telephoning the above contact.

Any person or organization desiring to present formal comments or remarks during the meeting should contact FmHA in advance, if possible. It will also be possible at the start of the meeting to make arrangements to speak. Time will be available during the meeting to informally present brief, general remarks or pose questions. Additionally, a 30-day period for the submission of written comments will follow the meeting.

Dated: December 26, 1984.

David J. Howe,

Director, Program Support Staff.

[FR Doc. 84-33995 Filed 12-31-84; 8:45 am]

BILLING CODE 3410-07-M

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: January 17 and 18, 1985.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington, D.C.

Type of Meeting: Closed.

Contact person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632-5176.

Purpose of Advisory Committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda

Will include the following discussions and presentations:

January 17

A.M. and P.M.—Arms Control Compliance and Strategic Defense

January 18

A.M.—Executive Session

Reason for closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated December 12, 1984, made pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act as amended.

John E. Grassle,

Committee Management Officer.

[FR Doc. 84-33821 Filed 12-31-84; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Census Advisory Committees on Population Statistics, the American Economic, American Marketing and the American Statistical Association; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on Population Statistics, and those of the American Economic, American Marketing, and American Statistical Associations are in the public interest in connection with the performance of duties imposed on the Department by law.

These committees were originally established in 1965, 1960, 1946, and 1919, respectively. Each was last renewed on December 30, 1982.

The committees will continue to provide advice to the Director, Bureau of the Census on such matters as conceptual problems concerning the economic censuses and surveys; decennial census of population; statistical needs of data users concerned with marketing the Nation's products and services; and numerous other aspects of the Bureau's programs.

The Committees on American Marketing, American Economic and Population Statistics will each have a balanced representation of 9 members. The committee on American Statistics will have a balanced representation of 12 members. The committees will continue to report and be responsible to the Director, Bureau of the Census and will function solely as an advisory body in compliance with the Federal Advisory Committee Act.

Copies of the committees' revised charters will be filed with appropriate committees in Congress.

Inquires or comments may be addressed to Mr. Mel Hendry, Committee Liaison Officer, Bureau of the Census, Room 3061-3, Washington, D.C. 20233; telephone (301) 763-3856, or Ms. Suzette Kern, Comittee Management Analyst, U.S. Department of Commerce, Washington, D. C. 20230, telephone (202) 377-4217.

Dated: December 24, 1984.

Christos N. Kyriazi,

Acting Director, Office of Information Resources Management.

[FR Doc. 84-33861 Filed 12-31-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Lars Machine, Inc., et al.

Petitions have been accepted for filing from the following firms: (1) Lars Machine, Inc., 1925 Roosevelt Avenue, Racine, Wisconsin 53406, producer of machine tools (accepted November 2, 1984); (2) World Brushworks, Inc., CPO Box 1188, Kingston, New York 12401, producer of brushes and brooms (accepted November 5, 1984); (3) Duralite Company, Inc., 2 Barbour Avenue, Passaic, New Jersey 07055, producer of patio furniture (accepted November 5, 1984); (4) Aloyco, Inc., 1400 West Elizabeth Avenue, Linden, New Jersey 07036, producer of valves and castings (accepted November 7, 1984); (5) Diventco Corporation, P.O. Box 1049, New Milford, Connecticut 06776, producer of printed circuit boards (accepted November 7, 1984); (6) Truitt Brothers, Inc., Perkins Road, Belfast, Maine 04915, producer of men's footwear (accepted November 8, 1984); (7) Texeramics, Inc., P.O. Box 550, Mineral Wells, Texas 76067, producer of ceramic tile (accepted November 9, 1984); (8) Dia-Compe, Inc., P.O. Box 798, Fletcher, North Carolina 28732, producer of bicycle brake systems, parts and accessories (accepted November 9, 1984); (9) Beverly Rose Sportswear, Inc., 560 Harrison Avenue, Boston, Massachusetts 02116, producer of women's skirts and slacks (accepted November 9, 1984); (10) Waterman Machine & Manufacturing Company, 1215 Germantown Avenue, Philadelphia, Pennsylvania 19122, producer of pipe flanges (accepted November 9, 1984); (11) O'Brient Consolidated Industries, Inc., P.O. Box 139, Lewiston, Maine 04240, producer of shoe machinery dies (accepted November 9, 1984); (12) International Cheese Company, Inc., Hinesburg, Vermont 05461, processor of cheese (accepted November 14, 1984); (13) Salz Leathers, Inc., 1040 River Street, Santa Cruz, California 95060, processor of leather (accepted November 14, 1984); (14) Ramco-Standard Corporation, 355 Lake Road, Medina, Ohio 44256, producer of pallet trucks and storage equipment (accepted November 14, 1984); (15) Aqua-Dyne, Inc., 2208 Karbach, Houston, Texas 77092, producer of water blasting and oil field equipment (accepted November 15, 1984); (16) Green Mill Candy Company, 1647 Broadway, Kansas City, Missouri 64108, producer of candy (accepted November 20, 1984); (17) Howard Uniform Company, 313 West Baltimore Street, Baltimore, Maryland 21201, producer of pants and coats for men, women and children (accepted November 26, 1984); (18) Super Seer Corporation, P.O. Box 700, Evergreen, Colorado 80439, producer of goggles, face shelds and helmets (accepted November 26, 1984); (19) Bea-Jay Manufacturing Corporation, 35 Pearl Street, Malone, New York 12953, producer of women's dresses (accepted November 26, 1984); (20) Joneco, Inc., west Kingfield Road, Kingfield, Maine 04947, producer of photograph albums (accepted November 27, 1984); (21) Gary H. Futa, Inc., 1059 12th Avenue, Honolulu, Hawaii 96816, producer of jewerly (accepted November 27, 1984); (22) The Fabsteel Company, 210 Travis Place, Sheveeport, Louisiana 71101, producer of structural steel (accepted November 27, 1984); (23) Alpha Data, Inc., 20750 Marilla Street, Chatsworth, California 91311, producer of computer equipment (accepted November 28, 1984); (24) Johar Manufacturing, Inc., 15934 South Figueroa, Gardena, California 90248, producer of bicycle accessories (accepted November 28, 1984); (25) Excelsior Pet Products, Inc., 162 42nd Street, Brooklyn, New York 11232, producer of bird cages (accepted November 28, 1984); (26) UPA Technology, Inc., 60 Oak Drive, Syosset, New York 11791, producer of scientific measuring instruments (accepted November 29, 1984); (27) E. & O. Mari, Inc., 256 Broadway, Newburgh, New York 12550, producer of musical instrument strings (accepted December 3, 1984); (28) American Pioneer, Inc., 6011 2nd Avenue NW., Seattle, Washington 98107, producer of video fish finders (accepted December 3, 1984); (29) Frank Montalbano Sportswear, Inc., 83 Washington Street, Paterson, New Jersey 07505, producer of women's blouses (accepted December 5, 1984); (30) Empire Tablet, Inc., P.O. Box 70, Whitesboro, New York 13492-0070, producer of composition books, paper pads and notebook paper (accepted December 7, 1984); (31) Van Doren Rubber Company, Inc., 2095 Batavia Street, Orange, California 92667, producer of footwear, jogging suits, T-shirts, caps, wallets and jewelry (accepted December 7, 1984); (32) Lesnow Manufacturing Company, Inc., 148 Pleasant Street, East Hampton,

Massachusets 01027, producer of women's blazers (accepted December 11, 1984); (33) Exeter Footwear Company, Inc., 93 Court Street, Exeter, New Hampshire 03833, producer of men's and women's sandals (accepted December 11, 1984); (34) Barker Heel Company, Inc., 2 Cedar Street, Lewiston, Maine 04240, producer of shoe heels (accepted December 11, 1984); (35) Chase Gardens, Inc., P.O. Box 10092, Eugene, Oregon 97440, producer of cut flowers and potted plants (accepted December 11, 1984); (36) CMC International, Inc., 1720 130th Avenue, NE., Bellevue, Washington 98005, producer of microcomputers and peripherals (accepted December 11, 1984); (37) Trans World Optics, Inc., 123 Marcus Boulevard, Hauppauge, New York 11787, producer of optical lenses and prisms (accepted December 11, 1984); (38) Sbicca of California, 2620 North Rosemead Boulevard, South El Monte, Caolfornia 91733, producer of women's footwear (accepted December 11, 1984); (39) Jonos International, Inc., 1835 Dawns way, Fullerton, California 92631, producer of computers, point of sale terminals and printed circuit boards (accepted December 14, 1984); (40) Lisa Marie Sportswear, Inc., P.O. Box 149, Phillipsburg, New Jersey 08865, producer of women's blouses (accepted December 18, 1984); and (41) Spherex, Inc., Walton Road, Seabrook, New Hampshire 03874, producer of wheels for baby carriages, strollers, bicycles and other toys (accepted December 21, 1984).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and Subpart B of the Proposed Adjustment Assistance Regulations for Firms and Industries (15 CFR Part 320). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 84–33996 Filed 12–31–84; 8:45 am]

BILLING CODE 3510-DR-M

National Bureau of Standards

National Conference on Weights and Measures; Meeting

Notice is hereby given that the Interim Meeting of the National Conference on Weights and Measures will be held January 28 through February 1, 1985, at the National Bureau of Standards, Gaithersburg, Maryland.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States, and private sector representatives. The interim meeting of the Conference, as well as the annual meeting to be held next July (a notice will be published in the Federal Register prior to such meeting), brings together the enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations for the purpose of hearing and discussing subjects that relate to the field of weights and measures technology and administration.

Pursuant to authority in its Organic Act (15 U.S.C. 272(5)), the National Bureau of Standards acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the States of commercial weighing and measuring.

The meeting is open to the public. Additional information concerning the Conference program and arrangements may be obtained from Albert D. Tholen, Executive Secretary, National Conference on Weights and Measures, P.O. Box 3137, Gaithersburg, Maryland 20899; telephone: (301) 921–3677.

Dated: December 26, 1984.

Ernest Ambler,

Director

[FR Doc. 84–33948 Filed 12–31–84; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Special Operations Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet in closed session 16 January 1985 in the Pentagon, Arlington, Virginia.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations Forces.

A meeting of the SOPAG has been scheduled for 16 January 1985 to discuss sensitive, classified topics.

In accordance with section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Dated: December 27, 1984.

Patricia Means,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84–33937 Filed 12–31–84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments of the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before February 1, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of

Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: December 26, 1984.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of Postsecondary Education

Type of Review Requested: *Reinstatement*
Title: Application for Grants under the Training Program for Special Programs Staff and Leadership Personnel
Agency Form Number: ED 883
Frequency: Annually
Affected Public: State or Local Governments; Non-profit Institutions
Reporting Burden: Responses: 60; Burden Hours: 2,040
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The form requests programmatic and budgetary information from institutions of higher education, public and non-profit private agencies and organizations so that ED staff and non-Federal reviewers have adequate and relevant data to make funding decisions. Data collected will be used to determine compliance with published funding criteria.

Type of Review Requested: *Revision*
Title: Performance/Financial Report Forms for the Supplemental Funds Program for Cooperative Education
Agency Form Number: ED 886-1, 886-2
Frequency: Annually
Affected Public: Public and Non-profit Institutions
Reporting Burden: Responses: 460; Burden Hours: 460
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The Performance and Financial Reports are needed by the U.S. Department of Education to monitor and close out grants awarded by the Supplemental Funds Program for Cooperative Education. Grantees submit reports annually.

Type of Review Requested: *Extension*
Title: Guarantee Agency Quarterly/Annual Report
Agency Form Number: ED 1130
Frequency: Quarterly; Annually
Affected Public: State or Local Governments; Non-profit Institutions
Reporting Burden: Responses: 300; Burden Hours: 360
Recordkeeping Burden: Recordkeepers: 60; Burden Hours: 2,220

Abstract: The Guarantee Agency Quarterly/Annual Report is submitted by 60 agencies operating student loan insurance programs under agreement with the Department of Education. The reports are used to evaluate agency operations, make payments to agencies as authorized by law, and to make reports to Congress and others.

[FR Doc. 84-33970 Filed 12-31-84; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1985 New Grant Applications.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of new grant applications for certain programs administered by the Department of Education under the Office of Special Education and Rehabilitative Services.

Organization of Notice

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates for new grant applications covered by this notice. Part II contains the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of applications: Applications for new awards must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: (*insert appropriate CFDA Number*), 400 Maryland Avenue, SW, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commerical carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: In each application notice, under the paragraph on availability of funds, these estimates of funding levels do not bind the Department to a specific number of

grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

The programs in this notice are subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officals, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

Included in each application announcement in this notice is a current list of States that have established a process, designated a single point of contact, and have selected that program for review. Also included in each announcement is the date by which comments and recommendations from the single point of contact review are due to the Department.

PART I—LIST OF PROGRAM ANNOUNCEMENTS PUBLISHED IN THIS NOTICE

CFDA	Program	Closing Date
84.078C	Postsecondary Education programs for handicapped persons—demonstration projects.	03-07-85
84.024C	Handicapped children's early education program—outreach projects.	03-07-85
84.024E	Handicapped children's early education program—early childhood State plan.	03-07-85

Part II—Application Notice

84.078 Postsecondary Education Programs for Handicapped Persons

Applications are invited for new demonstration projects under the Postsecondary Education Programs for Handicapped Persons.

Authorization for this program is contained in section 625 of Part C of the Education of the Handicapped Act. (20 U.S.C. 1424a)

Awards are made under this program to State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other nonprofit educational agencies.

The purpose of this program is to provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

84.078C Postsecondary Education Programs for Handicapped Persons—Demonstration Projects

Closing Date: March 7, 1985.

Program Information: (a) In accordance with 34 CFR 338.30(b), the Secretary will award fiscal year 1985 grants for model projects of supportive services to individuals with handicapping conditions other than deafness that focus on specially adapted or designed educational programs that coordinate, facilitate, and encourage education of handicapped individuals with their nonhandicapped peers, as described in 34 CFR 338.10(a)(2)(i). An application that does not address this priority will not be considered. If an application addresses both the priority and a non priority area, the Secretary will consider only that portion that addresses the priority.

(b) Within this priority, the Secretary especially urges the submission of applications for projects that develop models of generic postsecondary services for handicapped students which improve the transition to work, including program adaptation, curricula design and modification, program organization, and placement linkages. Projects in vocational-technical schools and institutions, and at community colleges and other two-year institutions are especially invited. These projects should produce information and practices which will facilitate their replication in other agencies and improve work opportunities for handicapped persons who are served in postsecondary settings. However, applications that meet the invitational priority described in this paragraph will not receive a competitive preference over other applications that propose model projects that meet the absolute priority described in paragraph (a).

Intergovernmental Review: The information on Intergovernmental Review of Federal programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Hampshire
Arizona	New Jersey
Arkansas	New Mexico
California	New York
Colorado	Nothern Mariana Islands
Connecticut	Ohio
Delaware	Oklahoma
District of Columbia	Oregon
Florida	Pennsylvania
Georgia	Puerto Rico
Guam	Rhode Island
Hawaii	South Carolina
Indiana	South Dakota
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Virgin Islands
Montana	Washington
Nebraska	Wisconsin
Nevada	Wyoming

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 7, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.078), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications).

Please note that the above address is not the same address as the one to which the applicant submits its application. Do not send applications to the above address.

Available funds: It is expected that approximately $1,000,000 will be available for support of an estimated 12–14 new grants for demonstration projects to be awarded in Fiscal Year 1985, with an average award of approximately $75,000.

Application forms: Application forms and program information packages will be mailed on January 11, 1985, to grantees who are eligible to apply for grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Postsecondary Education Programs for Handicapped Persons Program (34 CFR Part 338).

(b) Education Department General Administration Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Joseph Rosenstein, Postsecondary Education Programs, Captioning and Adaptation Branch, Division of Innovation and Development, Special Education Programs, 400 Maryland Avenue, SW. (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1176.

(20 U.S.C. 1424a)

84.024 Handicapped Children's Early Education Program

Applications are invited for new Early Childhood Outreach and State Plan projects under the Handicapped Children's Early Education Program.

Authority for the Handicapped Children's Early Education Program is contained in Section 623 of Part C of the Education of the Handicapped Act, as amended by Pub. L. 98–199.

(20 U.S.C. 1423)

84.024C Handicapped Children's Early Education Program—New Outreach Projects

Closing Date: March 7, 1985.

Program Information: The purpose of this program is to support experimental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age. Outreach projects support the replication of established practices to assist other agencies and organizations in expanding and improving services to handicapped children.

Applications may be submitted by public or non-profit private agencies, organizations, or institutions that—

(1) Have completed demonstration projects assisted under the Handicapped Children's Early Education program, or projects assisted with other Federal, State, local, private, or nonprofit funding sources that have achieved effective results with children; and

(2) Have continued the demonstration project program model with local, State and other funding other than under this part.

Priority for assistance under this program will be given to projects that—

(a) Assist other agencies and organizations in the development and implementation of comprehensive delivery systems for handicapped children that may be incorporated into Early Childhood State Plans under Subpart F of 34 CFR Part 309;

(b) Provide quality training and other assistance and general support services to regions, States, and geographical areas where handicapped children from birth through five years of age are unserved or underserved, especially projects that serve ethnic and linguistic minority group handicapped children, economically disadvantaged, and migrant handicapped children;

(c) Stimulate the provision of services, and provide training in rural areas; or

(d) Stimulate the provision of services and provide training based upon recent research findings and information from the fields of special education, child development, pediatrics, and other areas appropriate to early childhood education. (*See* 34 CFR 309.32.)

The Secretary especially urges the submission of applications for outreach projects that—(1) within each of the priorities listed in (a) through (d), address the needs of unserved and underserved preschool children who are severely and multiply handicapped; and (2) attempt to improve skills for use in the family, home, community, or day care centers by parents and personnel participating in the projects. However, applications that meet the invitational priorities described in this paragraph will not receive a competitive preference over other applications that meet the priorities described in paragraphs (a) through (d). Applications that do not address one or more of the priorities will not be considered.

84.024E Handicapped Children's Early Education Program—Early Childhood State Plan Projects

Closing Date: March 7, 1985.

Program Information: Grants are available to eligible States to assist those States in planning, developing, or implementing an Early Childhood State Plan for a comprehensive delivery system of special education and related services to handicapped children from birth through five years of age.

The Secretary makes one of the grants described in §§ 309.51–309.53 to any State which submits an application that meets the requirements of Subpart F of 34 CFR Part 309. States funded in Fiscal Year 1984, and therefore ineligible to apply under this announcement, are:

Alabama	Mississippi
Alaska	Missouri
American Samoa	Nebraska
Arkansas	Nevada
Northern Mariana Islands	Ohio
District of Columbia	Oklahoma
Idaho	Oregon
Illinois	Pennsylvania
Indiana	Rhode Island
Kansas	South Carolina
Kentucky	Texas
Massachusetts	Utah
Minnesota	Vermont
	Virginia

In accordance with section 623(c)(2) of the Act, the Secretary will issue grants in three categories: planning, development, and implementation.

Technical assistance (by telephone or mail) is available to applicants for this competition through START (State Technical Assistance Resource Team), Suite 500, NCNB Plaza, Chapel Hill, North Carolina 27514. Telephone: Pat Trohanis, (919) 962–2001.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required

under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	Northern Mariana Islands
Connecticut	Ohio
Delaware	Oklahoma
District of Columbia	Oregon
Florida	Pennsylvania
Georgia	Puerto Rico
Guam	South Carolina
Hawaii	South Dakota
Indiana	Tennessee
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virginia
Missouri	Virgin Islands
Montana	Washington
Nebraska	West Virginia
Nevada	Wisconsin
New Hampshire	Wyoming
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 7, 1985, to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.024), 400 Maryland Avenue, SW, Washington, DC 20202. (Proof of mailing will be determined on the same basis as applications).

Please note that the above address is not the same address as the one to which the applicant submits its application. Do not send applications to the above address.

Available funds: It is estimated that approximately $2,900,000 will be available for support of 25 new outreach projects under this program (84.024C) in fiscal year 1985.

It is estimated that approximately $2,975,000 will be available for support of the first year of the new Early Childhood State Plan projects (84.024E) in fiscal year 1985.

Application forms: Application forms and program information packages for the new Outreach projects for the Handicapped Children's Early Education Program will be mailed on January 11, 1985.

Application forms and program information packages for the new Early Childhood State Plan Program will be mailed to applicants on January 11, 1985.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program are published at 49 FR 28350 (July 11, 1984) (34 CFR Part 309).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Paul Ackerman, Chief, Program Development Branch, Office of Special Education Programs, Department of Education, 330 C Street, SW., (Switzer Building, 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1177.

(20 U.S.C. 1423, 1424(a))

(Catalog of Federal Domestic Assistance Numbers 84.078B—Postsecondary Education Programs; 84.024C—Handicapped Children's Early Education Program Outreach; 84.24E—Handicapped Children's Early Education Programs, State Plans)

Dated: December 27, 1984.

Gary D. Jones,

Acting Secretary of Education.

[FR Doc. 84-33972 Filed 12-31-84; 8:45 am]

BILLING CODE 4000-01-M

Training Personnel for the Education of the Handicapped—Special Projects

AGENCY: Department of Education.

ACTION: Application notice establishing closing date for transmittal of new applications for Fiscal Year 1985 Awards.

Applications are invited for new personnel preparation projects under the Training Personnel for the Education of the Handicapped program—Special Projects.

Authority for this program is contained in sections 631, 632, and 634 of Part D of the Education of the Handicapped Act.

(20 U.S.C. 1431, 1432, 1434)

The purpose of the program is to increase the quantity and improve the quality of personnel to educate handicapped children and youth.

Applications may be submitted by State educational agencies, institutions of higher education, and other appropriate nonprofit agencies or organizations.

Closing date for transmittal of applications: An application for a new award must be mailed or hand delivered on or before March 21, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.029, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Available funds: An applicant for a grant may propose a project period of up to 60 months. However awards will generally be made for a period of 24 to 36 months. It is expected that approximately $1,000,000 will be available to award new grants at the funding levels indicated under the application notice for each priority. These estimates of funding levels do not bind the Department to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Priorities for funding: The regulations provide that the Secretary, in any fiscal year, may select one or more of the ten published priorities, or any combination of priorities for competition (34 CFR 318.11). In fiscal year 1985 competitions will be held in the following selected priority area and combination priority area. Applications which do not address these priorities will not be considered.

84.029K Special Projects

Program information: This priority supports projects to develop and demonstrate new approaches for the preservice training purposes set forth in 34 CFR 318.10(a), for the preservice training of regular educators, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personel who serve handicapped children and youth. Project activities assisted under this priority include development, evaluation, and distribution of imaginative or innovative approaches to personel preparation, and development of materials to prepare personel to educate handcapped children and youth.

Available funds: About $600,000 of the funds made available for new Training Personnel for Education of the Handicapped awards for fiscal year 1985 will be made available for this priority. The average grant is expected to be about $65,000.

84.029V Special Projects/Rural

Program information: This combination priority requires that applications meet the requirements for Special Projects described previously, and the requirements of the priorty Preparation of Personnel to Work in Rural Areas. The Preparation of Personnel to Work in Rural Areas priority supports preservice training of personnel for rural areas. Particular attention must be given to preservice training related to the unique aspects of providing services to special populations in rural areas. Projects supported under this priority must prepare special education personnel to fill a variety of rural specific roles with handicapped students, parents, peers, and administrators. Training curricula must be designed to—

(i) Teach students about local community systems and encourage understanding of interdisciplinary models of service delivery which are consistent with local community values; and

(ii) Train students in alternate ways of adopting teaching techniques for specific rural community characteristics.

Applications which do not address both priorities will not be considered.

Available funds: About $400,000 of the funds made available for new Training Personnel for Education of the Handicapped awards for fiscal year 1985 will be made available for this priority. The average grant is expected to be about $65,000.

Application forms: Application forms and program information packages for new applications are scheduled to be available for mailing on January 18, 1985. These materials may be obtained by writing to the Division of Personnel Preparation, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Switzer Building, Room 3511, M/S 2313), Washington, D.C. 20202. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under Control Number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Training Personnel for the Education of the Handicapped (34 CFR Part 318). The Secretary published final regulations for the program on July 11, 1984. (49 FR 28370).

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Max Mueller, Director, Division of Personnel Preparation, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Switzer Building, Room 4628), Washington, D.C. 20202. Telephone: (202) 732-1068.

(20 U.S.C. 1431, 1432, 1434)
(Catalog of Federal Domestic Assistance No. 84.029; Training Personnel for the Education of the Handicapped)

Dated: December 27, 1984.

Gary L. Jones,

Acting Secretary of Education.

[FR Doc. 84-33971 Filed 12-31-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Amorient Petroleum Co., CA; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Amorient Petroleum Company, California (Amorient) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: February 1, 1985.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247 214/767-7404. Copies of the Consent

Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On September 28, 1984, the ERA executed a proposed Consent Order with Amorient. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. Audit

Amorient, located in Laguna Niguel, California, engaged in the purchase, resale and exchange of covered products including crude oil. Amorient was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212.

DOE conducted an audit for the period October 1977 through December 1980 to determine Amorient's compliance with the federal petroleum price and allocation regulations. That audit, now concluded, encompassed a review of Amorient's purchases and resales of crude oil, bunker fuel and other covered products, and considered the manner in which Amorient applied the petroleum price and allocation regulations including DOE regulations pertaining to entitlements. The audit identified several potential issues which could have affected the entitlements program and thereby caused consumers to pay higher prices for refined petroleum products. These issues involved numerous transactions with several other companies and resulted in a net benefit to Amorient of approximately $1.5 million.

At the close of the audit, DOE presented its findings to Amorient in several meetings and discussions. Amorient was permitted to present arguments and documentation to rebut the potential issues identified in the audit. Through the settlement process, the risks of litigation became clear to both sides and it was agreed to resolve the audit issues by Consent Order. No enforcement document was issued to Amorient.

II. The Consent Order

To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR, Parts 205, 210, 211, and 212, in connection with Amorient's transactions involving petroleum products during the period August 19, 1973 through January 27, 1981 ("the period covered by this Consent Order"), the ERA and Amorient entered into a Consent Order, the significant terms of which are as follows:

A. The Consent Order is intended by the signatories to settle the civil issues between DOE and Amorient relating to Amorient's compliance with the Federal petroleum price and allocation regulations during the period from August 19, 1973 through January 27, 1981.

B. ERA conducted a thorough audit to determine Amorient's compliance during the period covered by this Consent Order with the Federal petroleum price and allocation statutes, regulations and requirements. ERA and Amorient disagree in several respects concerning the proper application of such Federal petroleum price and allocation statutes, regulations and requirements to Amorient's activities during the settlement period. Amorient and ERA each believes that its respective positions on the legal issues underlying such disagreement are meritorious. Neither Amorient nor ERA disavows any position it has taken with respect to such legal issues.

C. Notwithstanding the above, Amorient maintains that it has calculated all of its costs, determined all of its prices, and operated in all other respects in accordance with all applicable statutes, regulations and other requirements. Execution of the Consent Order constitutes neither an admission by Amorient nor a finding by ERA of any violation by Amorient of any statute or regulation.

III. Refunds

Disposition of Refunds

Under the Consent Order, Amorient will pay the sum of $1,000,000 to the DOE. The DOE will hold the funds in an appropriate account pending a determination by the DOE of the disposition of the funds in accordance with applicable statutes and regulations. One-half of the payment is to be made within 30 days of the effective date of the Consent Order. The balance will be paid in quarterly installments over the ensuing twenty-six (26) months. Each installment payment will include interest on the unpaid balance computed at an average of the prime rate values published in the Federal Reserve Bulletin for the three months preceding each payment. Upon full satisfaction of the terms and conditions of this Consent Order by Amorient, the DOE releases Amorient from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

The foregoing provisions for payment of the refund amount were concurred in after ERA attempted to determine and identify all injured parties. These attempts were unsuccessful due to the nature of the business transactions in which Amorient was engaged during the settlement period. Amorient's activities were of such a nature so as to make it impossible for ERA to identify specific parties who or which may have been injured.

IV. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Amorient Petroleum Company, California." The ERA will consider all comments it receives by 4:30 p.m., local time on February 1, 1985. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 12th day of September, 1984.

James O. Neet, Jr.,

Chief Counsel, Dallas ERA Office.

[FR Doc. 84-33929 Filed 12-31-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of November 30 Through December 7, 1984

During the Week of November 30 through December 7, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such

comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

December 19, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 30 through Dec. 7, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 30, 1984	A. V. Wright & Associates, Inc., Los Angeles, California	HRD-0256	Motion for Discovery.
If granted: Discovery would be granted to A. V. Wright & Associates, Inc. in connection with the Statement of Objections submitted in response to the May 18, 1984 Proposed Remedial Order issued to the firm (Case No. HRO-0166).			
Nov. 30, 1984	Crown Central Petroleum Corporation, Washington, D.C.	HRR-0096	Request for modification/rescission.
If granted: The November 16, 1984 Decision and Order (Case No. HRZ-0224) issued to Crown Central Petroleum Corporation would be modified regarding Crown Central Petroleum Corp's cost allocation reports.			
Dec. 3, 1984	Clark Oil & Refining Corp., Washington, D.C.	HRD-0257	Motion for Discovery.
If granted: Discovery would be granted to Clark Oil & Refining Corporation in connection with the Statement of Objections submitted in response to a Proposed Remedial Order issued to the firm (Case No. HRO-0249).			
Dec. 3, 1984	Dresser Industries, Inc., Libertyville, Illinois	HFA-0265	Appeal of an information request denial.
If granted: The October 29, 1984 Freedom of Information Request Denial issued by the DOE Nevada Operations Office would be rescinded, and Dresser Industries, Inc. would receive access to documents submitted in connection with Contract RFP No. DE-RP08-84-NV10405.			
Dec. 3, 1984	Pacific Northern Oil, Seattle, Washington	HEE-0111	Exception to the reporting requirements.
If granted: Pacific Northern Oil would not be required to file Form EIA 782B "Resellers/Retailers' Monthly Petroleum Product Sales Report."			
Dec. 3, 1984	Riner Oil Company, Lebanon, Indiana	HEE-0100	Exception to the reporting requirements.
If granted: Riner Oil Company would not be required to file Form EIA 782B, "Resellers/Retailers' Monthly Petroleum Product Sales Report."			
Dec. 7, 1984	The True Companies, Casper, Wyoming	HEF-0557	Implementation of special refund procedures.
If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the July 26, 1983 Consent Order issued to The True Companies.			

Refund Applications Received Week of Nov. 30 through Dec. 7, 1984

Date	Name of refund proceeding/ name of refund applicant	Case No. assigned
11/29/84	Adolf Coors/Action Supply, Inc.	RF67-3.
11/29/84	Adolf Coors/Independent Gas Company.	RF67-4.
11/29/84	Adolf Coors/Bob's Gas & Chemical Co.	RF67-1.
11/29/84	Adolf Coors/Action Gas, Inc.	RF67-2.
11/29/84	Gary/Kmooo Oil Company	RF51-2.
11/29/84	Gary/Action Gas, Inc.	RF51-4.
11/29/84	Gary/Action Gas, Inc.	RF51-5.
11/29/84	Gary/Independent Gas Company.	RF51-6.
11/29/84	Gary/Searle Gas Company	RF51-7.
11/29/84	Gary/Van Gas, Inc.	RF51-8.
11/29/84	Gary/Acorn Petroleum, Inc.	RF51-9.
11/29/84	Gary/LCL Oil Company	RF51-10.
12/5/84	Amtel/Hugh Yates Petroleum Company.	RF46-26.
12/5/84	Amtel/Nengue Oil Company	RF46-25.
12/6/84	Pennzoil/Paul L. Strycula	RF10-62.
12/7/84	Amoco/Fulton Amoco Service Station.	RF21-12369.
12/7/84	Windham/Norman Lumber, Inc.	RF43-7.
12/7/84	Amtel/Carson Petroleum Company.	RF46-27.
11/30/84	Bruce Gulf Service Station	RF40-300.
12/3/84	Jordan Gulf Service	RF40-301.
12/3/84	Bob Moss Brooks Gulf	RF40-302.
12/3/84	Inter-City Petroleum	RF40-303.
12/3/84	George's Gulf Service	RF40-304.
12/3/84	Waller's Gulf Service	RF40-305.
12/3/84	Walter's Gulf Service	RF40-306.
12/3/84	Tasty Kake, Inc.	RF40-307.
12/3/84	Ciampi Holiday	RF40-308.
12/3/84	Bob Carey's Gulf	RF40-309.
12/3/84	Bard's Auto Center	RF40-310.
12/3/84	Larry Evanko Gulf	RF40-311.
12/3/84	Bow Service Station	RF40-312.
12/3/84	Leroy H. Burton Gulf	RF40-313.
12/3/84	Irish Gulf Station	RF40-314.
12/3/84	Herington Gulf	RF40-315.
12/3/84	Herington M.S.I.	RF40-316.
12/3/84	Four-Point Gulf Service	RF40-317.
12/3/84	Molena Gulf Service	RF40-318.
12/6/84	Tinker's Service Station	RF40-319.
12/6/84	Bill & Koke Service	RF40-320.
12/6/84	F.J. Stanford, Jr.	RF40-321.
12/6/84	South Logan Gulf	RF40-322.

[FR Doc. 84-33955 Filed 12-31-84; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Period of October 29 Through November 16, 1984

During the period of October 29 through November 16, 1984, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

December 19, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Sun Company Inc., Radnor, PA; HRO-0257, crude oil

On November 14, 1984, Sun Company, Inc., 1000 Matsonford Road, Radnor, Pennsylvania 19087, filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel of the Economic regulatory Administration (ERA) issued to the firm on October 22, 1984. In the PRO the ERA found that during the period from July 1, 1980 through December 31, 1980, Sun produced and sold crude oil from its B. Benson, Boyd (Conglomerate) Unit, and O. L. Wilson 4600 Sand properties at prices in excess of those permitted by the Mandatory Petroleum Price Regulations at 10 CFR Part 212. The PRO finds that Sun misapplied regulatory provisions dealing with the classification of "newly discovered" crude oil, the designation of marginal properties, and the computation of base production control levels.

According to the PRO the Sun violation resulted in $2,484,050.75 of overcharges.

Union Oil Company of California, Los Angeles, CA; HRO-0256, crude oil

On November 13, 1984, Union Oil Company of California, 461 South Boylston St., Los Angeles, California 90017, filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Enforcement in Washington, D.C. issued to the firm on August 29, 1984. In the PRO the Office of Enforcement found that during the period from June 1979 through December 1980, Union improperly certified portions of a lease as "marginal" or "newly discovered" properties and sold crude oil produced from these improperly classified properties at prices in excess of those permitted by the Mandatory Petroleum Price Regulations at 10 CFR Part 212.

According to the PRO the Union Oil Company of California's violation resulted in $4,261,963.83 of overcharges.

[FR Doc. 84-33959 Filed 12-31-84; 8:45 am]

BILLING CODE 6450-01-M

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $499,097 (plus accrued interest) obtained as the result of Consent Orders which the DOE entered into with 48 California gasoline retailers. The funds will be available to customers which purchased gasoline from any of these retailers during periods ranging from August 1, 1979 through June 26, 1981.

DATE AND ADDRESS: Comments must be filed by February 1, 1985 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should display conspicuously a reference to Case Numbers HEF-0509 through HEF-0556.

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director, or Irene Bleiweiss, Attorney, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2400.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order relates to Consent Orders entered into by 48 gasoline service station owners who settled possible pricing violations with respect to their sales of gasoline during the period January 1, 1979 through June 26, 1981. Under the terms of the Consent Order, $499,097 has been remitted by the service station owners and is being held in an interest-bearing escrow account pending determination of its proper distribution.

The Proposed Decision and Order published with this Notice sets forth the procedures and standards that the DOE has tentatively formulated to distribute funds remitted by the gasoline retailers and being held in escrow pursuant to the consent orders. The DOE has tentatively decided that the funds should be distributed in a two step refund proceeding. The first stage will attempt to refund moneys to customers of any of the 48 gasoline retailers who can document their purchases. The Proposed Decision and Order provides for the general allocation of funds among successful claimants using a volumetric distribution based on the number of gallons of product purchased. After meritorious claims are paid in the first stage, second-stage refund procedures may become necessary to distribute any remaining funds.

Applications for Refund should not be filed at this tisme. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: December 18, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refuned Procedures

Name of Case: Edward Mantz d/b/a A-1 Arco, *et al.*

Date of Filing: September 18, 1984.

Case Numbers: HEF-0509 through HEF-0556.

December 18, 1984.

On September 18, 1984, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) in accordance with 10 CFR Part 205, Subpart V. The petition requests that the OHA formulate and implement procedures for the distribution of the funds received pursuant to consent orders entered into with 48 gasoline retailers.

Each of the 48 retailers operated one or more [1] retail gasoline service stations in the State of California during the settlement period and was a "reseller-retailer" of refined petroleum products as that term was defined in 6 CFR 150.352 and 10 CFR § 212.31. The firms were therefore subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F. An ERA audit of each firm's operations revealed possible pricing violations by each firm in sales of motor gasoline during the period from August 1, 1979 through June 26, 1981 (See Appendix). In order to settle all claims and disputes between the retailers and the DOE regarding the prices which they charged in sales of motor gasoline, the retailers and the DOE entered into consent orders, in which each retailer agreed to pay a sum of money to the DOE. These payments total $499,097 and were deposited in an escrow account for ultimate distribution to parties who may have been injured by the alleged overcharges. This Proposed Decision concerns the distribution of that consent order fund.

I. Jurisdiction and Authority To Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of a consent order. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable readily to identify either the persons or firms who may have been injured as a result of alleged or adjudicated violations or to ascertain the amount of ech person's injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

II. Proposed Refund Procedures

Based on our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. The first stage will attempt to refund moneys to individuals and firms who have suffered adverse impacts from their purchases of motor gasoline during the consent order

[1] Bubble Machine, Montclair Chevron, Ken Betts Towing Service and Pinole Valley Chevron, Case Number HEF-0514, are all owned by the same person. Pacifica Shell and Pacific Mannor Shell, Case Number HEF-0540, are also under common ownership. CP Marketing Chevron Car Wash was sold by one owner to another during the audit period (Case Numbers HEF-0518 and HEF-0519). Therefore, although this Proposed Decision and Order involves 48 consent orders with 48 retailers, these consent orders actually affect 51 gasoline service stations.

period from any of the 48 retailers listed in the Appendix and who are able to identify their purchases of gasoline from these firms. Such purchasers must file claims in order to be eligible for a portion of the consent order fund. After meritorious claims are paid in the first stage, second-stage refund procedures may become necessary to distribute any remaining funds. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identifiable Purchasers

We propose that the California Gasoline Retailers consent order funds be distributed to claimants who satisfactorily demonstrate that they were adversely affected by the alleged pricing practices of any of the 48 retailers whose names and addresses are listed in the Appendix. We believe that the claimants in this proceeding will be firms, individuals, and organizations which were consumers (end-users) of motor gasoline sold by any of the 48 retailers.

In the past we have adopted a presumption that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry are injured by the alleged overcharges settled in a consent order. *Texas Oil & Gas Corporation* 12 DOE ¶ 85,069 at 88,209 (1984). We will adopt that presumption in this case. The fuel costs of these business end-users are only one, indistinguishable component of their prices for goods and services. In addition, this group was not generally subject to price controls during the consent order periods. Thus, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum products and services would be beyond the scope of a refund proceeding. Therefore, end-users who document their purchase volumes from any of the 48 gasoline retailers will be found to have made a sufficient showing of injury.

Although it is most likely that those claiming refunds will be end-users, it is possible that some of the claimants may be considered resellers. For example, car rental companies are resellers. *Standard Oil Co. (Indiana)/The Hertz Corp.; Avis, Inc.*, 11 DOE ¶ 85,202 (1983). Generally, resellers must demonstrate injury by showing that they did not pass the possible overcharges on to their own customers. However, we recognize that the expensive and time consuming process of gathering the types of data needed to support a claim of injury may discourage many small claimants from filing refund applications. Failure to allow simplified application procedures for small claims could operate to deprive injured parties of the opportunity to obtain a refund. Therefore, we will adopt a presumption in this case, as we have in the past, that claimants seeking refunds up to $5,000.00 were injured by the alleged overcharges. *Texas Oil & Gas Corporation*, 12 DOE ¶ 85,069 (1984).

With respect to applicants who demonstrate that they are entitled to refunds, we propose to utilize a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated for each gasoline service station by dividing the consent order amount for a particular service station by the number of gallons which that firm sold during the period covered by the consent order.[2] Successful claimants will receive refunds based on their eligible purchase volumes multiplied by the volumetric refund amount, plus accrued interest. However, we also recognize that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that he suffered a disproportionate share of the overcharges.

As in previous cases, we will establish a minimum refund amount of $15.00 for first-stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less that $15.00 outweights the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 85,541 at 85,225 (1982).

Detailed procedures for filing applications for refunds will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the Consent Order involved in this proceeding, we intend to publicize widely the distribution process, to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim. In addition to publishing this Proposed Decision in the **Federal Register**, copies of the Proposed Decision will be sent to organizations which represent small California businesses. These organizations should be helpful in advising potential claimants of this proceeding.

B. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in various ways in a second stage of this proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

It Is Therefore Ordered That:

The $499,097 refund amount supplied by the 48 retailers pursuant to the consent orders entered into with the Department of Energy on or about January 18, 1984 will be distributed in accordance with the foregoing Decision.

[2] As we pointed out in footnote 1 above, the 48 consent orders in this case affect 51 gasoline service stations. To derive the consent order fund for CP Marketing Chevron Car Wash, which had two owners during the audit period, we added the amounts of the consent orders entered into with each owner. (Case Numbers HEF-0518 and HEF-0519). To determine the consent order fund for a single station whose owner entered into a consent order covering more than one service station, we divided the consent order amount equally among the owner's stations (Case Numbers HEF-0514 and HEF-0540).

APPENDIX A—CASES HEF-0509 THROUGH HEF-0556

City, State and ZIP	Street address	Business name	Case No.	Refund per gallon
Almo, CA 94507	3127 Danville Blvd	Hal Abel's Chevron	HEF-0510	$0.015799
Concord, CA 94520	2484 Olivera Rd	Terry McGovern's Shell	HEF-0552	0.026749
Danville, CA 94526	485 San Ramon Valley Rd	CP Marketing Chevron Car Wash	HEF-0518 and HEF-0519	0.021402
Danville, CA 94526	530 San Ramon Valley Blvd	Walt's Danville Chevron, Inc	HEF-0555	0.031749
Fairfax, CA 94930	1942 Sir Francis Drake Blvd	Robert J. Heald Shell	HEF-0529	0.005267
Fremont, CA 94538	5300 Mowry Ave	Mowry Chevron	HEF-0538	0.026382
Half Moon Bay, CA 94019	375 Cabrillo Hwy	Ken's Chevron Service	HEF-0532	0.037180
Hayward, CA 94544	26115 Hesperian Blvd	Bud's Exxon Service	HEF-0511	0.039255
Jamestown, CA 95327	18151 Highway 108	Chip's Chevron Service	HEF-0517	0.029607
Labec, CA 93243	Star Route, Box 23	Grapevine Shell	HEF-0526	0.029673
Labec, CA 93243	Int. Hwy 5 & Grapevine	Grapevine Texaco	HEF-0527	0.020064
Livermore, CA 94550	1253 Portola Ave	Steve's Exxon	HEF-0550	0.015627
Menlo Park, CA 94025	125 Sharon Park Dr	Sharon Heights Shell	HEF-0545	0.003891
Mill Valley, CA 94941	105 Tiburon Blvd	Don Skilling Chevron Service	HEF-0547	0.034252
Milpitas, CA	1490 S. Park Victoria	Parktown Chevron	HEF-0541	0.026687
Milpitas, CA 95035	12 N. Park Victoria	Jerry's Shell Service	HEF-0530	0.023351
Milpitas, CA 95035	27 S. Park Victoria	Union Park Service	HEF-0553	0.051905
Oakland, CA 94605	3101 98th Ave	Kim's Mobil	HEF-0533	0.009720
Oakland, CA 94607	889 W. Grand Ave	A-1 Arco	HEF-0509	0.024006
Oakland, CA 94607	10th and Webster	Ken Betts Towing Service	HEF-0514	0.039755
Oakland, CA 94610	3500 Lakeshore Ave	Steve Horner Chevron Service	HEF-0549	0.011661
Oakland, CA 94611	6550 Moraga Blvd	Montclair Chevron	HEF-0514	0.024283
Oakland, CA 94607	609 Oak St	Bubble Machine	HEF-0514	0.026178
Orinda, CA 94563	9 Orinda Way	Dietrich Orinda Shell	HEF-0522	0.015456
Pacifica, CA 04044	Aura Vista & Palmetto	Pacific Manor Shell	HEF-0540	0.003826
Pacifica, CA 94044	4475 Court Highway	Pacifica Shell	HEF-0540	0.019862
Petaluma, CA 94952	5153 Old Redwood Hwy	Jim's Texaco Service	HEF-0531	0.001531
Pinole, CA 94564	2695 Pinole Valley Rd	Pinole Valley Chevron	HEF-0514	0.028198
Pinole, CA 94564	700 Tennent Ave	Ye Olde Pump House	HEF-0556	0.033722
Pleasant Hill, CA 94523	2252 Morello Ave	Suds Machine Chevron Car Wash	HEF-0551	0.021488
Sacramento, CA 93454	8099 Folsom Blvd	Walt Freeman Chevron	HEF-0524	0.018734
Sacramento, CA 95825	2105 Arden Way	Harv's Sacramento Car Wash	HEF-0528	0.014304
Sacramento, CA 95827	3300 Bradshaw Rd	Jerry Bullard Chevron	HEF-0515	0.034095
Salina, CA 94590	151 N. Kern	Paul Provost Chevron	HEF-0542	0.014544
San Bruno, CA 94066	2901 Sneath Lane	George's Circle Service	HEF-0525	0.013915
San Bruno, CA 94066	2101 San Bruno Ave	Shelter Creek Chevron	HEF-0546	0.024065
San Francisco, CA 94123	377 6th St	Lazar Super Shell	HEF-0535	0.015960
San Francisco, CA 94123	1790 Lombard St	Lombard Chevron Service	HEF-0536	0.033818
San Francisco, CA 94123	2301 Lombard St	Marina Chevron Service Center	HEF-0537	0.015558
San Jose, CA 95111	3151 Senter Rd	Ben Sosbee's Chevron Service	HEF-0512	0.028092
San Jose, CA 95129	1699 Saratoga-Sunnyvale Rd	Lee Kreger's Chevron	HEF-0534	0.026929
San Lorenzo, CA 94580	15526 Hesperian Blvd	Car Wash Services	HEF-0516	0.025501
San Ramon, CA 94583	2735 Crow Canyon Rd	Crow Canyon Shell	HEF-0520	0.011276
San Ramon, CA 94583	2747 Crow Canyon Rd	Nelson's Service Center, Inc	HEF-0539	0.017601
Santa Cruz, CA 95060	805 Ocean St	Bob's Chevron Service	HEF-0513	0.030766
Santa Maria, CA 93454	734 E. Main St	Doug Meyers Chevron Service	HEF-0523	0.020372
Santa Maria, CA 93454	16111 S. Broadway	Santa Maria Chevron	HEF-0544	0.033980
Santa Rosa, CA 95405	164 Calistoga Rd	St. Francis Texaco	HEF-0548	0.010101
Vallejo, CA 94590	4375 Sonoma Blvd	Bill Pendergast & Son Chevron	HEF-0543	0.057185
Vallejo, CA 94590	3288 Sonoma Blvd	Vale Vista Chevron	HEF-0554	0.014194
Walnut Creek, CA 94596	2900 N. Main St	Howard DeRoven Shell	HEF-0521	0.021173

APPENDIX B

Case No.	Proprietor	Audit period	Consent order
HEF-0509	Mantz, Edward G.	8/1/79-7/31/80	$6,500
HEF-0510	Abel, Harold J.	8/1/79-4/14/80	7,500
HEF-0511	Adams, Bud	8/1/79-11/13/79	6,163
HEF-0512	Sosbee, Ben	5/1/80-10/30/80	9,700
HEF-0513	DiCiana, Robert J.	8/1/79-1/31/80	9,950
HEF-0514	Betts, Ken	8/1/79-6/25/80	24,500
HEF-0514	Betts, Ken	8/1/79-7/18/80	24,500
HEF-0514	Betts, Ken	8/1/79-6/26/80	24,500
HEF-0514	Betts, Ken	8/13/79-7/17/80	24,500
HEF-0515	Bullard, Jerry	8/1/79-8/21/80	30,000
HEF-0516	Brooke, Richard E.	8/1/79-1/31/80	12,500
HEF-0517	Sooter, Cecil	8/1/79-1/6/81	18,700
HEF-0518 and HEF-0519	Stuart, James and Vernco, Inc.	9/20/79-5/31/80	12,100
HEF-0520	Krissovich, Andrew R.	8/1/79-4/11/80	4,500
HEF-0521	DeRoven, Howard	12/15/79-6/10/80	5,400
HEF-0522	Dietrich, Bud	8/1/79-9/18/79	3,800
HEF-0523	Myers, Doug	8/1/79-4/24/80	6,000
HEF-0524	Freeman, Walter	5/1/80-9/30/80	5,456
HEF-0525	Cravines, George D.	8/1/79-11/13/79	1,000
HEF-0526	Mynk, Robert	8/1/79-6/9/80	15,200
HEF-0527	Beagley, Steven	8/1/79-1/29/80	14,883
HEF-0528	Miller, Harvey M.	8/1/79-7/31/80	4,000
HEF-0529	Gregory, Robert	7/1/80-11/30/80	1,000
HEF-0530	Anderson, Jerry	8/1/79-11/8/79	4,300
HEF-0531	Daniels, Jim	12/15/79-6/10/80	200
HEF-0532	Lord, Kenner G.	8/1/79-11/8/79	11,000
HEF-0533	Kim, Young H.	8/1/79-4/10/80	3,500
HEF-0534	Kreger, Lee	6/1/80-11/26/80	6,600
HEF-0535	Lazar, Sam	8/1/79-1/11/80	3,500
HEF-0536	Kim, Sun S.	8/1/79-1/11/80	2,800
HEF-0537	Pietsch, Don	8/1/79-1/11/80	3,150
HEF-0538	Haavisto, Vincent J.	12/15/79-5/21/80	17,500

APPENDIX B—Continued

Case No.	Proprietor	Audit period	Consent order
HEF-0539	Nelson, William L	8/1/79-4/11/80	18,300
HEF-0540	Sossikian, Vacane	8/1/79-11/13/79	2,550
HEF-0540	Sossikian, Vacane	8/1/79-3/31/80	2,550
HEF-0541	Bushman, Gerald	8/1/79-9/26/80	36,000
HEF-0542	Provost, Paul	8/1/79-1/30/80	4,700
HEF-0543	Pendergast, Bill	8/1/79-1/30/80	9,450
HEF-0544	Agergaard, Jens	8/1/79-4/25/80	9,700
HEF-0545	Dyster, Robert	8/1/79-11/8/79	1,110
HEF-0546	Tutte, Bud	8/1/79-11/13/79	7,800
HEF-0547	Skilling, Don	8/1/79-11/13/79	16,200
HEF-0548	Donahoe, Carl	4/1/80-9/30/80	750
HEF-0549	Horner, Steve	8/1/79-10/19/79	3,450
HEF-0550	Asman, Steve	8/1/79-11/13/79	2,000
HEF-0551	Campbell, James	8/1/79-6/10/80	24,000
HEF-0552	McGovern, Terry	12/15/79-7/7/80	8,250
HEF-0553	Neiman, Edward	8/1/79-11/8/79	9,300
HEF-0554	Terrassas, Frank	8/1/79-1/30/80	2,500
HEF-0555	Macor, Walter	12/1/79-5/22/80	8,240
HEF-0556	Torretta, Al	8/1/79-12/7/79	9,100

[FR Doc. 84-33954 Filed 12-31-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $14,204.00 obtained as the result of a Consent Order which the DOE entered into with J.A.L. Oil Company Inc., a reseller of motor gasoline located in Great Neck, New York.

DATE AND ADDRESS: Applications for refund of a portion of the J.A.L. consent order funds must be received on or before April 2, 1985. All applications should refer to Case Number HEF-0098 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Amy Resner, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to a consent order entered into by J.A.L. Oil Company Inc., which settled possible pricing violations in the firm's sales of motor gasoline to its customers during the period November 1, 1979 through April 8, 1980. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of J.A.L. consent order funds was issued on August 2, 1984. 49 FR 32,794 (August 16, 1984).

Today's Decision sets forth final procedures and standards that the DOE formulated to distribute the contents of an escrow account funded by J.A.L. pursuant to the consent order. The DOE has decided that a portion of the consent order funds should be distributed to twenty-eight first purchasers after each has filed an application for refund. These purchasers were identified by a DOE audit, and allotted funds based on presumptions of injury which the DOE has utilized in past proceedings. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit.

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased motor gasoline from J.A.L. during the audit period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: December 20, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: J.A.L. Oil Company, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0098.

December 20, 1984.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA), on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA). The petition requests that the OHA formulate and implement procedures for the distribution of funds received in connection with a consent order that ERA entered into with J.A.L. Oil Company, Inc. (J.A.L.).

I. Background

J.A.L. is a "reseller" of motor gasoline as that term was defined in 10 CFR 212.31 and is located in Great Neck, New York. A DOE audit of the firm's records revealed possible pricing violations amounting to $25,140.30 with respect to sales of motor gasoline during the period November 1, 1979 through April 9, 1980.(1) In order to settle all claims and disputes between J.A.L. and the DOE regarding the firm's sales of motor gasoline during the audit period, J.A.L. and the DOE entered into a consent order on May 15, 1981. The Consent Order refers to the ERA's allegations of overcharges, but notes that no findings of violations were made. Additionally, the Consent Order states that the consent order firm does not admit that it committed any such violations. Finally according to the J.A.L. consent order, the firm agreed to deposit $14,204.00 (including interest through December 31, 1980) into an interest bearing escrow account for the ultimate distribution by DOE. This Decision

concerns the distribution of the $14,204.00, which J.A.L. paid to DOE on November 20, 1982, plus interest which the account has accrued to date.

On August 2, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the J.A.L. consent order funds. 49 FR 32,794 (August 16, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely, in part, on the information contained in the ERA audit file. We observed that this approach was warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of the firm's products are identified in the audit file, *see, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) *(Marion)*. We also noted that under such circumstances, a more precise determination with respect to the identity of the allegedly overcharged parties was possible. At the same time, we recognized that there may have been other purchasers who were not identified by the ERA audit, who were possibly injured as a result of J.A.L.'s pricing practices during the audit period, and who would therefore be entitled to a portion of the consent order funds.

A copy of the PD&O was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to each purchaser identified in the ERA audit file.[2] While none of J.A.L.'s customers filed comments on the proposed procedures, comments were filed on behalf of the State of New Mexico. These comments, however, discuss the distribution of any residual funds in a subsequent proceeding. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the J.A.L. refund proceeding. This Decision sets forth the information that a purchaser of J.A.L. products should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the state's comments concerning the disposition of any funds remaining after all the meritorious first-stage claims have been paid.[3]

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE¶ 82508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

In the PD&O we stated that during DOE's audit of J.A.L., twenty-eight first purchasers were identified as having allegedly been overcharged. We recognize that the DOE audit file does not provide conclusive evidence as to the identity of possible refund recipients or the amount of money that they should receive in a Subpart V proceeding. *See Armstrong and Associations/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). Nevertheless, the information contained in the audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach. *Marion* at 88,031. In previous cases of this type, we have proposed that the lists of customer names and alleged overcharges attributed to each, which were provided by the ERA audit, should be utilized in reaching a determination on how the funds in the escrow accounts should be distributed. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Brown Oil Co.*, 12 DOE ¶ 85,028 (1984). The twenty-eight first purchasers identified by the audit, along with the share of settlement funds allotted to each, are listed in the Appendix.

Identification of first purchasers is only the first step in the distribution process. We must also determine whether these first purchasers were actually injured, or whether they passed through the alleged overcharges. As we stated in the PD&O, we will also adopt certain presumptions in order to distribute the escrow account in this case. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. As in previous special refund procedures, in this case we will adopt a presumption of injury with respect to small claims.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the J.A.L. consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to OHA) of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from J.A.L. and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumption we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond

purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the consent order fund is small, the refund amount is fairly low, and the time period of the consent order was quite distant, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein. In the PD&O we stated that after analysis of the information in the record, it appears that all twenty-eight of J.A.L.'s customers listed on the Appendix made small purchases of J.A.L.'s products.

On the basis of the information in the record, and after adopting a presumption of injury with respect to customers who made small purchases, refunds will be authorized to the twenty-eight purchasers for the shares of the settlement amount indicated, plus a proportionate share of the accrued interest to date.[4] As we explained in the PD&O, we believe that using the information in the ERA audit file along with certain presumptions in order to distribute the J.A.L. escrow funds to the identified purchasers, is equitable, administratively efficient, and the most appropriate method of accomplishing restitution in this proceeding. However, in order to actually receive a refund each customer will still be required to file an application for refund in this proceeding (See discussion *infra*). If additional meritorious claims are filed, we will adjust the figures listed in the Appendix accordingly. Actual refunds will be determined only after analyzing all appropriate claims.[5] Finally as we indicated in the PD&O, we will establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban, supra* at 85,225. *See also* 10 CFR 205.286(b). No comments were received with regard to the refund procedures proposed in the PD&O. Accordingly, for the reasons stated in the PD&O we will implement those proposals.

III. Applications for Refund

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the J.A.L. consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline from J.A.L. during the audit period. As we proposed, the consent order funds will be distributed to the firms that the ERA alleged in its audit were overcharged by J.A.L., provided each files an application, as well as to other eligible customers of J.A.L. who apply for a refund.

In order to receive a refund each claimant will be required to submit with its application, either a schedule of its monthly purchases of motor gasoline from J.A.L. or a statement verifying that it purchases motor gasoline from J.A.L. and is willing to rely on the data in the audit file. Claimants must indicate, as well, whether they have previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding. Purchasers not identified by the ERA audit will be required to provide specific information concerning the date, place, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. A purchaser must indicate, as well, how it used the J.A.L. product, *i.e.*, whether it was a reseller or ultimate consumer. Each applicant must also state whether there has been a change in ownership of the firm since the audit period, and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should refer to Case Number HEF-0098 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by J.A.L. Oil Company, Inc. pursuant to the consent order executed on May 15, 1981, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

(3) This is a final order of the Department of Energy.

Dated: December 20, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(1) The ERA, in this case, conducted its audit based on a sample of the firm's records. The auditors first identified alleged overcharges in November and December 1979, and January 1980. They then extrapolated from those figures to arrive at an estimate of alleged overcharges through April 8, 1980.

(2) Some of the copies of the PD&O which were sent to the identified purchasers were returned unclaimed. We attempted to contact these purchasers, but we were unable to do so. While copies of this Final Decision and Order will not be sent to these purchasers, each may still submit an application for refund in this proceeding.

(3) Furthermore, these comments have virtually no bearing on this proceeding. As we have stated previously, we request states to participate only in those cases where they can demonstrate a significant interest and in which they can participate in a meaningful and constructive way. See August 1, 1984 letter to Johanna McCully-Bonner, Assistant Attorney General for Texas, in reference to request to participate in sixty-six proceedings. We note that in this instance there is no apparent connection between the

violations alleged in this proceeding and the interests of New Mexico and its citizens. The motor gasoline in this case was sold solely in the State of New York.

(4) The share of the escrow fund which the listed purchasers may receive represents 57% of the amount each was allegedly overcharged, and is consistent with the terms of the consent order which settled 57% of the total amount of alleged overcharges identified by the audit.

(5) Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show that they are entitled to larger refunds than those indicated in the Appendix.

APPENDIX

First purchasers	Portion of settlement amount [1]
Beckel, 259 Kent Avenue, Brooklyn, NY 11211	$31.25
Four Corners, 2228 Gerritsen Avenue, Brooklyn, NY 11229	377.83
Gitlitz, 382 Remsen Avenue, Brooklyn, NY 11212	346.58
Kingslawn, 6201 Avenue U, Brooklyn, NY 11234	1,133.48
Morton Street, 18 Morton Street, New York, NY 10014	62.50
Rapid, 78-20 Northern Blvd., Jackson Hts., NY 11372	755.65
Supreme, 1676-3 Avenue, New York City, NY 10028	1,070.98
Zac's, 68-21 Eliot Avenue, Middle Village, NY 11379	3,244.19
A & F Service Station, 594 Jamaica Avenue, Brooklyn, NY 11208	188.91
Aqua Rock, 107-28 Rockaway Blvd., Ozone Park, NY 11417	188.91
Cartrek, 7519 18th Avenue, Brooklyn, NY 11214	188.91
Jamaica Service Station, 139-01 Jamaica Avenue, Jamaica, NY 11435	377.83
Restoration, 1450 Atlantic Avenue, Brooklyn, NY 11216	566.74
Star, 70-52 Kissena Blvd., Flushing, NY 11367	755.65
Vin Art, 56-20 Clarendon, Brooklyn, NY 11203	661.91
Kingsway, 120 Kings Highway, Brooklyn, NY 11214	566.74
McManus, 150-05 Liberty Avenue, Jamaica NY 11433	124.99
S & J, 1504 Myrtle Avenue, Brooklyn, NY 11227	504.24
Alan's Car Mart, 1102 Broadway, Woodmere, NY 11598	150.56
Globe, 1201 Jackson Avenue, Long Island City, NY 11101	377.83
Mor-Rich, 465 Morgan Avenue, Brooklyn, NY 11222	95.17
Triangle, 17 Nassau Avenue, Brooklyn, NY 11222	62.50
Absosan Service Station, 254 LaFayette Street, New York City, NY 10012	221.58
H & P, 133-02 Jamaica Avenue, Richmond Hill, NY 11418	221.59
Woodstone, 69-01 Woodhaven Blvd., Forest Hills, NY 11375	377.83
Frank's, 391 Newbridge Road, East Meadow, NY 11554	654.80
Fred's, 489 Canal Street, New York City, NY 10013	188.91
Father & Son, 168 Atlantic Avenue, Lynbrook, NY 11563	705.94

[1] Includes principal and interest through Dec. 31, 1980. Actual refunds will also include the interest which the account has accrued on this amount since DOE received the J.A.L. consent order funds on Nov. 20, 1981.

[FR Doc. 84-33956 Filed 12-31-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $28,483.59 obtained as the result of a Consent Order which the DOE entered into with Reinhard Distributors, Inc., a reseller of petroleum products located in Kent, Washington.

DATE AND ADDRESS: Applications for refund of a portion of the Reinhard consent order funds must be received on or before April 2, 1985. All applications should refer to Case Number HEF-0163 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTRACT: Amy Resner, Office of Hearings and Appeals 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to a consent order entered into by Reinhard Distributors, Inc., which settled possible pricing violations in the firm's sales of refined petroleum products to its customers during the period November 1, 1973 through May 15, 1974. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Reinhard consent order funds was issued on July 13, 1984. 49 FR 30105 (July 26, 1984).

Today's Decision sets forth final procedures and standards that the DOE formulated to distribute the contents of an escrow account funded by Reinhard pursuant to the consent order. The DOE has decided that a portion of the consent order funds should be distributed to six first purchasers after each has filed an application for refund. These purchasers were identified by a DOE audit, and allotted funds based on presumptions of injury which the DOE has utilized in past proceedings. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit.

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased petroleum products from Reinhard during the audit period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: December 20, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Reinhard Distributors, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0163.

December 20, 1984.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA), on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA). The petition requests that the OHA formulate and implement procedures for the distribution of funds received in connection with a consent order that ERA entered into with Reinhard Distributors, Inc. (Reinhard).

I. Background

Reinhard is a "reseller-retailer" of "covered" products as those terms were defined in 10 CFR 212.31, and is located in Kent, Washington. A DOE audit of the firm's records revealed possible pricing violations with respect to the firm's sales of No. 1 heating oil and No. 2 diesel fuel, during the period November 1, 1973, through April 30, 1974, and with respect to regular and premium motor gasoline sales during the period November 1, 1973, through May 15, 1974. In order to settle all claims and disputes between Reinhard and the DOE regarding the firm's sales of these refined petroleum products during the audit period, Reinhard and the DOE entered into a consent order on September 14, 1979, in which the firm agreed to make refunds amounting to $89,530.24 (including interest). The Consent Order refers to the ERA's allegations of overcharges, but notes that no findings of violations were made. Additionally, the Consent Order states that the consent order firm does not admit that it committed any such violations. According to the Reinhard consent order, the alleged overcharges affected three classes of customers.

Separate processes were established by which Reinhard would make refunds directly to its customers who were allegedly injured, as well as place funds

in escrow for DOE to distribute. First, $67,702.49, representing alleged overcharges on sales of gasoline to end users, was to be refunded directly to customers by Reinhard's reducing the selling price of gasoline at each of its retail service stations. Second, $1,243.78 was to be refunded directly by Reinhard to Puget Power of Bellevue, Washington, in settlement of alleged overcharges to that company with respect to sales of No. 2 diesel oil. Third, $20,583.97, representing 100 percent of the alleged overcharges with respect to sales of gasoline to certain wholesale purchasers and alleged overcharges relating to sales of No. 2 diesel oil and No. 1 heating oil to both end-users and wholesale purchasers, was to be deposited by Reinhard into an interest-bearing escrow account for ultimate distribution by DOE. As a result of the decontrol of gasoline in January 1981, Reinhard was unable to refund the entire $67,702.49 slated to be made through price reductions. It therefore submitted to DOE an additional $4,899.62 (including closeout interest), for a total escrow amount of $25,483.59. This Decision concerns the distribution of the $25,483.59 that Reinhard deposited into the escrow account, plus accrued interest to date.

On July 13, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Reinhard consent order funds. 49 FR 30105 (July 26, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely, in part, on the information contained in the ERA audit file. We observed that this approach was warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of the firm's products are identified in the audit file, *see, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We also noted that under such circumstances, a more precise determination with respect to the identity of the allegedly overcharged parties was possible. At the same time, we recognized that there may have been other purchasers not identified by the ERA audit who may have been injured as a result of Reinhard's pricing practices during the audit period that would be entitled to a portion of the consent order funds. Therefore, procedures by which such purchasers could establish a refund claim in this proceeding were also proposed.

A copy of the PD&O was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to each purchaser identified in the ERA audit file. None of Reinhard's customers filed comments on the proposed procedures. Comments were filed, however, on behalf of eight states relating to the distribution of any residual funds in a subsequent proceeding. (*1*) These comments, however, discuss the distribution of any residual funds in a subsequent proceeding. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the Reinhard refund proceeding. This Decision sets forth the information that a purchaser of Reinhard products should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Accordingly, it would be premature for us to address at this time the issues raised by the states' comments concerning the disposition of any funds remaining after all the meritorious first-stage claims have been paid.(*2*)

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

A. Refunds to Identified Purchasers

In the PD&O we stated that during DOE's audit of Reinhard, seven first purchasers were identified as having allegedly been overcharged. We recognize that the DOE audit file does not provide conclusive evidence as to the identity of possible refund recipients or the amount of money that they should receive in a Subpart V proceeding. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). Nevertheless, the information contained in the audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach. *Marion* at 88,031. In previous cases of this type, we have proposed that the lists of customers' names and alleged overcharges attributed to each, which were provided by the ERA audit, should be utilized in reaching a determination on how the funds in the escrow account should be distributed. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Brown Oil Co.*, 12 DOE ¶ 85,028 (1984). The seven first purchasers identified by the audit, along with the share of the settlement amount allotted to each, are listed in the Appendix.

Identification of first purchasers is only the first step in the distribution process. We must also determine whether these first purchasers were actually injured, or whether they passed through the alleged overcharges. As we stated in the PD&O, we will also adopt certain presumptions in order to distribute the escrow account in this case. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. As in previous special refund proceedings, in this case we will adopt a presumption of injury with respect to small claims. In addition, we adopt a presumption that spot purchasers were generally not injured by overcharges, and are therefore not entitled to receive refunds from consent order funds.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Reinhard consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As

we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information, and the cost to the agency of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows OHA to process a large number of routine refund claims quickly, and to use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Reinhard and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the consent order fund is small, the refund amount is fairly low, and the time period of the consent order was quite distant, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

In the PD&O we stated that after analysis of the information in the record, it appears that six of Reinhard's customers listed on the Appendix made small purchases of Reinhard's products. While the refund authorized for Nebert Bros. is larger than the refunds alloted to the other small firms, we will not in Nebert's case require a specific demonstration of injury prior to its receiving a refund. Nebert Bros. is a small distributor of gasoline and fuel oil. The firm also operates a retail service station and a few small commercial enterprises. During the time of Reinhard's alleged overcharges, Nebert Bros. had annual sales of approximately $275,000. Port Angeles, Washington, the firm's principal place of business is a small (population approximately 17,000) and substantially isolated community located on the northern coastline of the Olympic peninsula which comprises a constituent part of the State of Washington. From these facts it can be concluded that Nebert Bros. had a small sales volume, was a partial end-user and probably lacked alternative suppliers. For these reasons, as well as the fact that the alleged overcharges occurred over ten years ago, we have determined that Nebert Bros. is the type of firm to which the small firm presumption is customarily applied. In addition, according to the DOE audit, Nebert Bros. bore a disproportionate share of Reinhard's alleged overcharges ($.0189 per gallon compared to $.0028 per gallon of gasoline purchased by other first purchasers examined by the audit.) Consequently, the audit file allocated to Nebert Bros. over one half (43.194 percent) of the funds held in escrow for the benefit of first purchasers. Based upon these considerations—Nebert's status as a partial end-user and small reseller, and the disproportionate injury suffered by the firm—we have concluded that Nebert Bros. should not be required to make a further showing of injury for the small portion of the alleged overcharges that exceeds the $5,000 threshold.

As we stated in the PD&O, the conclusion that claimants who were spot purchasers are not entitled to refunds from consent order funds is based on the rationale that spot purchasers are presumed not to have been injured by a supplier's pricing violations. *See Office of Enforcement*, 8 DOE ¶ 82,597 (1981). As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Richards Oil Company, 12 DOE ¶ ——— (December 10, 1984). The record in this proceeding reveals that one of Reinhard's customers, Fletcher Oil Company (Fletcher), made a single purchase from Reinhard during the consent order period. As we stated in the PD&O, we have therefore determined that the Reinhard consent order funds should not be distributed to Fletcher. We will, however, give Fletcher an opportunity to present evidence to rebut this presumption and establish the extent to which it was injured as a result of its purchase from Reinhard during the consent order period.

On the basis of the information in the record, and after adopting a presumption of injury with respect to customers who made small purchases and a presumption of no injury with respect to spot purchasers, refunds will be authorized to six of the purchasers listed in the Appendix for the shares of the settlement amount indicated, plus a proportionate share of the accrued interest to date. However, in order to actually receive a refund, each customer will have to file an application for refund (*see* discussion *infra*). As we stated above, in this case, Reinhard agreed in the consent order to refund the entire amount it had allegedly overcharged its customers. Therefore the portion of the escrow account which ERA allotted to each of these listed purchasers, represents 100 percent of the amount each was allegedly overcharged. As we explained in the PD&O, we believe that using the information in the ERA audit file along with certain presumptions in order to distribute the Reinhard escrow funds to the identified purchasers, is equitable, administratively efficient, and the most appropriate method of accomplishing restitution in this proceeding.

B. Refunds to Other Purchasers

As we indicated previously, this Decision concerns the distribution of $25,483.59 that Reinhard deposited into the escrow account, plus accrued interest to date. The refunds allotted to

identified purchasers total only $15,690.25. As we stated in the PD&O, there may have been other first purchasers not identified by the ERA audit, as well as downstream purchasers, who may have been injured as a result of Reinhard's pricing practices during the audit period and who would therefore be entitled to a portion of the consent order funds. To assist other potential claimants in deciding whether to apply for a refund, we proposed to utilize the small claim and spot purchaser presumptions discussed above, and, in addition, to adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Reinhard during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater than the pro rata amount determined by the volumetric presumption. Certain purchasers may believe that they suffered disproportionate injury as a result of Reinhard's pricing practices during the consent order period. Any such purchasers may file a refund application for an amount greater than that calculated using the volumetric presumption provided that the claimant documents the disporportionate impact of the alleged overcharges. *See, e.g., Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

Using a volumetric approach in this proceeding means that a portion of the Reinhard consent order amount would be allocated to each gallon of product which a successful claimant purchased from Reinhard. The average per gallon refund, or volumetric refund amount, in this proceeding is $0.008426 per gallon.(3) Potential applicants that were not identified by the ERA audit may use the volumetric figure to estimate the refund to which they may be entitled. We pointed out in the PD&O that our experience with Subpart V proceedings indicated that to the extent such other purchasers came forward as first-stage refund claimants they would be either resellers (including retailers) or end-users. We stated that in order to qualify for a refund, resellers generally would be required to establish that they absorbed the alleged overcharges. To make this showing, they would have to demonstrate that market conditions did not allow them to pass through to their customers the additional costs associated with alleged overcharges on the product they purchased from Reinhard during the consent order period. Resellers would also have to show that they maintained "banks" of unrecovered costs in order to demonstrate that they did not subsequently recover these increased costs by increasing prices. We suggested, however, that those reseller claimants who do not claim to have purchased more than an average of 50,000 gallons per month of product from Reinhard would be eligible for refunds without making a specific showing of injury. We have since decided that establishing a presumption of injury in terms of a dollar amount, rather than a purchase volume figure, would be more appropriate. See discussion, *supra*. In this case, reseller claimants applying for a refund under $5,000 will not be required to demonstrate injury.

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984) and cases cited therein. We have therefore concluded that end-users of Reinhard's petroleum products need only document their purchase volumes from Reinhard to make a sufficient showing that they were injured by the alleged overcharges. As we indicated in the PD&O, if additional meritorious claims are filed, we will adjust the figures listed in the Appendix accordingly. Actual refunds will be determined only after analyzing all appropriate claims.(4)

Finally, as we indicated in the PD&O, we will establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See e.g., Uban, supra* at 85,225. *See also* 10 CFR 205.286(b). No comments other than the states' comments were received with regard to the refund procedures proposed in the PD&O. Accordingly, for the reasons stated in the PD&O we will implement these proposals.

III. Applications for Refund

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Reinhard consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline, No. 1 heating oil, or No. 2 fuel oil from Reinhard during the audit period. As we proposed, the consent order funds will be distributed to the firms that the ERA alleged in its audit were overcharged by Reinhard (with the exception of Fletcher), provided each files an application, as well as to other eligible customers of Reinhard who apply for a refund.

In order to receive a refund each claimant will be required to submit with its application, either a schedule of its monthly purchases from Reinhard of motor gasoline, No. 1 heating oil, or No. 2 fuel oil, or to submit a statement verifying that it purchased petroleum products from Reinhard and is willing to rely on the data in the audit file. Claimants must indicate, as well, whether they have previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding. Purchasers not identified by the ERA audit will be required to provide specific information concerning the date, place, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. A purchaser must indicate, as well, how it used the Reinhard product, i.e., whether it was a reseller or ultimate consumer. Each applicant must also state whether there has been a change in ownership of the firm since the audit period, and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal**

Register. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should refer to Case Number HEF-0163 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Reinhard Distributors, Inc. pursuant to the consent order executed on September 14, 1979, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: December 20, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

footnotes

(1) The eight states are: Arkansas, Delaware, Kansas, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia.

(2) Furthermore, these comments have virtually no bearing on this proceeding. As we have stated previously, we request that states participate only in those cases where they can demonstrate a significant interest and in which they can participate in a meaningful and constructive way. We note that in this instance there is no apparent connection between the violation alleged in this proceeding and the interests of these states and their respective citizens. The refined petroleum products in this case were sold primarily in the State of Washington.

(3) This per gallon factor is computed by dividing the $25,483.59 available for distribution under the Reinhard consent order by 3,024,312 gallons, which represents Reinhard's total sales of all covered products during the consent order period for which Reinhard did not make a direct refund.

(4) Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show that they are entitled to larger refunds than those indicated in the Appendix.

APPENDIX

First purchases	Alleged overcharge amount [1]
Jem Locke, 14225 Interurban Ave. South, Tukwila, WA 98188	$578.73
Nebert Bros. 1233 E. 1st St. Port Angeles, WA 98362	8,346.27
Ray Barrett, Coastal Oil Co., P.O. Box 916, Auburn, WA 98002	1,229.76
Earl Storey 1302 E. 1st St. Cle Elum, WA 98922	1,015.19
John B. Dickson, Two Embarcadero Center, Suite 1870, San Francisco, CA 94111	1,038.21
Howard Turner, P.O. Box 5431, Kent, WA 98031	927.51
Fletcher Oil Co., P.O. Box 2115, Tacoma, WA 98401	2,554.58

[1] Includes interest accrued through May 20, 1981.

[FR Doc. 84-33957 Filed 12-31-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy is seeking comments on a Proposed Decision and Order concerning procedures for distributing funds obtained as the result of DOE enforcement proceedings involving alleged crude oil pricing violations by Westates Petroleum Company.

DATE AND ADDRESS: Comments may be submitted no later than February 1, 1985, should conspicuously display a reference to case number HEF-0457, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2094.

SUPPLEMENTARY INFORMATION: The Department of Energy's Office of Hearings and Appeals hereby gives notice of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order tentatively establishes procedures to distribute funds obtained as the result of a DOE enforcement proceeding involving alleged crude oil pricing violations by Westates Petroleum Company during the period September 1, 1973, to January 28, 1981. This proceeding was culminated by a consent order which DOE entered into with Westates Petroleum Company Liquidation Trust. Pursuant to the consent order, Westates made refunds totaling $825,000 in settlement of alleged violations of the DOE pricing regulations. those funds have been paid to DOE and are being held in escrow under the jurisdiction of DOE pending receipt of instructions from OHA regarding their final distribution.

The Office of hearings and Appeals will accept comments on this Proposed Decision that are filed by February 1, 1985, and should be sent to the address set forth at the beginning of this notice. Applications for refunds should not be filed at this time.

Dated: December 18, 1984

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Case: Westates Petroleum Company Liquidation Trust.

Date of Filing: October 13, 1983.

Case Number: HEF-0457.

December 18, 1984.

This proceeding involves a Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration (ERA) with the Office of Hearings and Appeals (OHA) pursuant to the provisions of 10 CFR Part 205, Subpart V. Under those procedural regulations, ERA may request that OHA formulate and implement a specially-designed process to distribute funds received as a result of enforcement proceedings in order to remedy the effects of alleged or actual violations of Department of Energy (DOE) regulations. ERA filed the petition in this proceeding in connection with a consent order which it entered into with Westates Petroleum Company Liquidation Trust (formerly Westates Petroleum Company, hereinafter collectively referred to as "Westates").(1) Pursuant to the consent order, Westates made refunds totaling $825,000 in settlement of alleged violations of the DOE pricing regulations. Those funds have been paid to DOE and are being held in escrow under the jurisdiction of DOE pending receipt of instructions from OHA regarding their final distribution.(2)

Among its business activities, Westates produced and sold domestic crude oil. Accordingly, Westates was subject to the Mandatory Petroluem Price regulations set forth in 6 CFR Part 150 and 10 CFR Part 212.(3) ERA and its predecessor agencies conducted an audit and investigation of Westates. ERA alleged that it found that Westates sold crude oil at prices exceeding the

applicable ceiling prices in violation of the Mandatory Petroleum Price Regulations during the period September 1, 1973, to January 28, 1981.

ERA agreed to terminate the pending investigation and administrative proceeding through a consent order, and Westates agreed to pay $825,000 to the DOE. Notice of the consent order was published in the **Federal Register**. (4) Interested parties were provided an opportunity to comment on the terms of the consent orders and to submit written notices to ERA of potential claims against the settlement funds.

This decision tentatively sets forth procedures to distribute refunds to parties who were injured by Westates alleged violations.

Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedure and we have determined that it is appropriate to establish such a proceeding with respect to the Westates settlement funds. In recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See, e.g., Office of Enforcement,* 9 DOE ¶ 82,553 at 85,284 (1982). We will therefore grant ERA's petition and assume jurisdiction over the distribution of these funds.

Proposed Refund Procedures

We have previously established refund procedures for consent orders involving the same type of crude oil-related violations as those which are the subject of the present proceeding. In *Office of Enforcement: In the Matter of Alfred B. Alkek,* 9 DOE ¶ 82,521 (1982), 47 FR 2196 (January 14, 1982) (hereinafter cited as *Alkek*) and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982), 47 FR 16381 (April 16, 1982) (hereinafter cited as *Adams*), which involved consent orders and remedial orders with 58 firms, we established a two-stage refund procedure for consent order and remedial order funds received as a result of alleged crude oil regulatory violations. Because the types of alleged violations that underlie the present proceeding are substantially the same as those that were the subject of the *Alkek* and *Adams* proceedings, we have determined that it is appropriate to formulate a two-stage refund proceeding modeled after those proceedings. We therefore propose to establish first-stage refund procedures in which we will accept first-stage refund applications to be adjudicated in the same manner and using the same principles as those refund applications that were filed pursuant to the *Alkek* and *Adams* determinations. As we noted in *Alkek*, it would be premature for consumers and consumer groups to file applications for refund until the refiners' and resellers' claims have been resolved. *Alkek* at 85,136. Parties who have filed claims in the *Alkek* and *Adams* proceedings, and have not had a decision on those claims, will be deemed to have filed similar applications in this proceeding.

Conclusion

We propose that the refund mechanisms and procedures outlined above for first-stage claims filed with DOE will be adopted. With respect to the second-stage of the refund process as in previous cases, we shall hold in abeyance our determination as to appropriate second-stage procedures until we know how much money will remain after successful first-stage claimants are paid. *See Office of Enforcement,* 9 DOE ¶ 82,508 (1982).

It Is Therefore Ordered That:

The refund amount and accrued interest remitted to the Department of Energy by the Westates Petroleum Company Liquidation Trust pursuant to the Consent Order shall be distributed in accordance with the foregoing Decision.

Footnotes

(1) A copy of the consent order filed by ERA may be obtained from the OHA Public Docket Room. As the consent order contains little specific information regarding the crude oil pricing violations that were alleged before settlement, we have not included in this decision specifc identification of the violations underlying this consent order.

(2) The funds were deposited into an escrow account which, along with accrued interest, totaled $1,122,497.89 as of October 12, 1984.

(3) Those regulations generally required crude oil producers to determine the first sale price of crude oil based on the level of production from a property during a specified base period, i.e. the base production control level (BPCL). *See* 6 CFR 150.354; 10 CFR 212.72–.74. The term "property" was defined as the right to produce crude oil which arises from a lease or fee interest. 6 CFR 150.354(b)(2); 10 CFR 212.72. Crude oil production that did not exceed the BPCL for a particular property was generally subject to the lower tier ("old" oil) ceiling price rule. 6 CFR 150.354; 10 CFR 212.73. Crude oil production that exceeded the BPCL ("new" oil) could generally be sold without regard to the ceiling price rule before February 1, 1976, and at the upper tier ceiling price level after that date. 6 CFR 150.354(c)(2); 10 CFR 212.74(a). Before February 1, 1976, in months in which new oil could be sold from a property, additional volumes of crude oil could be sold as "released" oil at prices in excess of the applicable lower tier ceiling price level. 6 CFR 150.354(c)(3); 10 CFR 212.74(b). Additionally, crude oil produced from a "stripper well property" could generally be sold at market price levels. Producers and resellers of crude oil were generally required to certify in writing to each purchaser in the distribution chain the respective volumes of the various categories of price-controlled domestic crude oil included in each purchase. 10 CFR 212.131(a)(4), (b)(1). Each refiner was required to report these certifications to DOE and its predecessors when the refiner processed the crude oil. See CFR 211.67.

(4) DOE procedural regulations require the publication for public comment in the Federal Register of consent orders which call for the payment of sums exceeding $500,000. *See* 10 CFR 205.199J(b).

[FR Doc. 84–33958 Filed 12–31–84; 8:45 am]

BILLING CODE 6450–01

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50618 FRL–27452]

Pesticides; Issuance of Experimental Use Permit; BASF Wyandotte Corp.; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA is correcting a notice that granted an experimental use permit for Poast Herbicide to BASF Wyandotte Corp.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, CM No. 2, Rm. 245, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1800).

SUPPLEMENTARY INFORMATION: In FR Doc. 84–16816, appearing in the **Federal Register** of June 27, 1984 (49 FR 26284), the following change is made:

On page 26285 in the second column in the second paragraph, the chemical formula for 7969–EUP–19 is changed from "3-isopropyl-1H-2,1,3-benzothiadiazin 4(3H)-one 2,2-dioxide" to read "2[1-(ethoxyimino) butyl]-5-[2-ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one."

(Sec. 5, Pub. L. 95–369; 92 Stat. 826 (7 U.S.C. 136(c)))

Dated: December 19, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–33748 Filed 12–31–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-59174B; TSH-FRL-2735-2]

Approval of Test Marketing Exemptions; Certain Chemicals

Correction

In FR Doc. 84-32350 appearing on page 48379 in the issue of Wednesday, December 12, 1984, make the following correction: In the second column, sixth line under the heading TME-85-4, "C_{8-11}" should have read "C_{8-11}".

BILLING CODE 1505-01-M

[OPP-00188; OPP-FRL 2747-1]

Administrator's Pesticide Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) will hold a meeting to discuss legislative issues relating to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). General activities of the Office of Pesticide Programs (OPP) may also be discussed. The meeting will be open to the public.

DATE: The meeting will take place on Friday, January 25, 1985, at 9:00; a.m. and adjourn by 4:30 p.m.

ADDRESS: The meeting will be held in: Rm. 3906-3908, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS-788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-636, 401 M St., SW., Washington, D.C. 20460, (202-382-7801).

SUPPLEMENTARY INFORMATION: The APAC will begin with opening remarks by Dr. Sam Gusman, Chairperson for the APAC, and Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances. The Committee will discuss possible legislative alternatives for amending FIFRA. A more detailed agenda will be available at a later date.

The meeting will be open to the public, and time will be set aside for public comments concerning possible amendments to FIFRA. Any member of the public wishing to present an oral or written statement relating to the Committee's topics of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above.

Dated: December 20, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-33941 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00190; FRL-2747-2]

Administrator's Pesticide Advisory Committee; Subcommittee on Labeling; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of subcommittee meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC), Subcommittee on Labeling, will hold a meeting to discuss: (a) The extent to which labeling is used, (b) the appropriate format and content of labeling, (c) alternative approaches to communicate information, (d) from what key groups EPA should be obtaining information, and (e) how EPA should obtain information from those groups. Further, the Subcommittee will discuss the need and possibilities for survey or other research work to determine the extent to which pesticide labels are effectively communicating hazard and safety information to the user. The meeting will be open to the public.

DATE: The meeting will take place on Thursday, January 24, 1985, at 9:00 a.m. and adjourn by 3:00 p.m.

ADDRESS: The Subcommittee meeting will be held in: Rm. 1112, Crystal Mall #2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS-788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E636, 401 M St., SW., Washington, D.C. 20460, (202-382-7801).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public and time will be set aside for public comments concerning the Subcommittee's contribution to EPA's pesticide labeling project and other items. Any member of the public wishing to present an oral or written statement relating to the subcommittee's topics of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above. A complete agenda will be available at the meeting.

Dated: December 20, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-33940 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30089; FRL-2746-2]

Nonregulatory Pesticide Registration Guideline On Reentry Protection; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is making a nonregulatory pesticide registration guideline on reentry protection available to the public through the National Technical Information Service (NTIS). The NTIS order number and price for the guideline document are provided.

ADDRESS: Address orders to: National Technical Information Service, Attention: Order Desk, 5285 Port Royal Rd., Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: By mail:

James D. Adams, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 815, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7347).

SUPPLEMENTARY INFORMATION: The nonregulatory pesticide registration guideline contains standards for conducting acceptable tests, guidance on evaluation and reporting of data, detailed guidance on when data are required, and examples of acceptable protocols. The guideline on Exposure; Reentry Protection (Subdivision K) is available to the public and can be purchased through NTIS.

Orders for the guideline document may be placed by telephone (703-487-4650), to the NTIS order desk and charged against a deposit account, American Express, VISA, or Mastercard or sent by mail with check, money order, or account number to the address listed above under **"ADDRESS."**

The order should specify the title of the guideline document, the corresponding NTIS order number, and whether hard copy or microfiche is desired. The NTIS order number is the same for both microfiche and hard copy, but the price differs in hard copy. Document title, order number, and price are as follows:

Document title	NTIS order NO.	Price (hard copy)	Price (microfiche)
Subdivision K	PB-85-120962	$10.00	$4.50

A copy of the guideline is available for review in the public Reading Room of the Office of Pesticide Progams (OPP) from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The OPP Reading Room is located in Rm. 236, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

Dated: December 20, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33945 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240056; FRL-2746-6]

State Registration of Pesticides; Alabama, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 18 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**..

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 726A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7116).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by the EPA in July 1984. Receipts of State registrations will be published periodically. The following registrations do not involve changed-use patterns. The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. AL 84 0004. Mobay Chemical Corp. Registration is for Guthion 2L Insecticide to be used on cotton to control boll weevils. July 23, 1984.

California

EPA SLN No. CA 84 0196. Upjohn Co. Registration is for Botran 75W & Anti-Dione TGF to be used on turf (greens, tees, fairways) to control sclerotium blight *(Sclerotium rolfsii).* July 2, 1984.

EPA SLN No. CA 84 0204. Penick Corp. Registration is for Scourge to be used in California to control mosquitoes. July 27, 1984.

Delaware

EPA SLN No. DE 84 0006. Prentiss Drug & Chemical Co., Inc. Registration is for Prentox R Rotenox 5 EC to be used on potatoes, eggplants, and tomatoes to control Colorado potato beetles. July 16, 1984.

EPA SLN No. DE 84 0007. Fairfield American Corp. Registration is for Rotacide EC to be used on potatoes, eggplants, and tomatoes to control Colorado potato beetles. July 17, 1984.

EPA SLN No. DE 84 0008. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on outer clothing to control ticks, chiggers, and mosquitoes. July 17, 1984.

EPA SLN No. DE 84 0009. Penick Corp. Registration is for Noxfire Insecticide With Rotenone EC 5% Fire Ant Drench Formula II to be used on lawns, grounds, around buildings, fields, waste lands, recreational areas, and campgrounds to control fire ants. July 16, 1984.

Georgia

EPA SLN No. GA 84 0003. Pennwalt Corp. Registration is for Penncap-M Insecticide to be used on cotton to control boll weevils and on soybeans to control stinkbugs. July 10, 1984.

Iowa

EPA SLN No. IA 84 0003. Degesch America, Inc. Registration is for Degesch Magtoxin Pellet-Prepac to be used in bins, silos, holding tanks, food and feed processing equipment, and conveyers to control confused flour beetles and red flour beetles. July 2, 1984.

Louisiana

EPA SLN No. LA 84 0015. PBI/Gordon Corp. Registration is for Quadmec to be used on bluegrass and bermudagrass turfs to control nutsedge, grass weeds, and broadleaf weeds. July 20, 1984.

EPA SLN No. LA 84 0016. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on outer clothing to control ticks, chiggers, and mosquitoes. July 26, 1984.

EPA SLN No. LA 84 0017. Mobay Chemical Corp. Registration is for Sencor 4F Flowable Herbicide to be used on fallowed sugarcane fields to control grass weeds and broadleaf weeds. July 30, 1984.

EPA SLN No. LA 84 0018. Mobay Chemical Corp. Registration is for Sencor DF 75% Dry Flowable Herbicide to be used on fallowed sugarcane fields to control seedling johnsongrass and assorted weeds. July 30, 1984.

Maryland

EPA SLN No. MD 84 0005. SDA Biotech Corp. Registration is for Bravo 500 to be used on tomatoes to control anthracnose. July 2, 1984.

Michigan

EPA SLN No. MI 84 0010. Mobay Chemical Corp. Registration is for Mesurol 75% WP to be used on corn to control snails and slugs. July 19, 1984.

EPA SLN No. MI 84 0011. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on spearmint and peppermint to control prostrate knotweed, redroot pigweed, and common purslane. July 19, 1984.

Minnesota

EPA SLN No. MN 84 0003. Degesch America, Inc. Registration is for Degesch Magtoxin Pellet Prepac to be used in bins, silos, holding tanks, food and feed processing equipment, conveyors, and related equipment to control confused flour beetles, red flour beetles, and other stored-product insects listed on the Federal label. July 24, 1984.

New Hampshire

EPA SLN No. NH 84 0001. Penick Corp. Registration is for Noxfire Insecticide with Rotenone EC 5% Fire Ant Drench Formula II to be used on lawns, gardens, and grounds to control Colorado potato beetles. July 2, 1984.

New Jersey

EPA SLN No. NJ 84 0013. SDS Biotech Corp. Registration is for Royal MH-30 to be used on tomatoes to control anthracnose. July 11, 1984.

EPA SLN No. NJ 84 0014. Uniroyal Chemical. Registration is for Bravo 500 to be used on cranberries to control wild beans, rice cutgrass, feather ferns, royal ferns, and cinnamon ferns. July 16, 1984.

Nevada

EPA SLN No. NV 84 0004. Orco, Inc. Registration is for Orco Patrol to be used near runways or burrows to control ground squirrels. July 18, 1984.

EPA SLN No. NV 84 0005. Orco, Inc. Registration is for Orco Gopher Grain to be used on forest crops, orchards, and noncrop areas to control pocket gophers. July 18, 1984.

Ohio

EPA SLN No. OH 84 0003. Velsicol Chemical Corp. Registration if for Ramik Green to be used in dormant bearing and nonbearing fruit tree orchards to control pine voles and meadow voles. July 6, 1984.

Oklahoma

EPA SLN No. OK 84 0012. Platte Chemical Co. Registration is for Clean Crop Diazinon AG 500 Insecticide to be used on winter wheat to control southern masked chafers (*Cyclocephala spp.*) and white grubs (*Phyllophaga crinita*). July 10, 1984.

Oregon

EPA SLN No. OR 84 0033. Wilbur-Ellis Corp. Registration is for Malathion 5 Pyrethrum 0.1 Dust P.B. to be used on mushrooms to control mites and phorid and sciarid flies. July 26, 1984.

EPA SLN No. OR 84 0034. Mobay Chemical Corp. Registration is for Nemacur 15% Granular to be used on raspberries to control nematodes. July 17, 1984.

EPA SLN No. OR 84 0036. Rohm and Haas Co. Registration is for Dithane Z-78 to be used on radishes to control downy mildew. July 24, 1984.

Pennsylvania

EPA SLN No. PA 84 0009. Velsicol Chemical Corp. Registration is for Ramik Green to be used on dormant-bearing and nonbearing fruit tree orchards to control pine voles and meadow voles. July 10, 1984.

Virginia

EPA SLN No. VA 84 0006. SDS Biotech Corp. Registration is for Bravo 500 to be used on tomatoes to control anthracnose. July 3, 1984.

Washington

EPA SLN No. WA 84 0049. FMC Corp. Registration is for Kolodust to be used on potatoes to control powdery mildew. July 3, 1984.

EPA SLN No. WA 84 0050. FMC Corp. Registration is for Dimethoate 267 to be used on lentils to control aphids and lygus bugs. July 6, 1984.

EPA SLN No. WA 84 0052. Wilbur-Ellis Co. Registration is for Ben-Sul 60 Dust to be used on potatoes to control powdery mildew. July 3, 1984.

EPA SLN No. WA 84 0053. Union Carbide Agricultural Products, Inc. Registration is for Temik 15G Aldicarb Pesticide to be used on nonbearing apple trees to control aphids. July 13, 1984.

EPA SLN No. WA 84 0054. Wilbur-Ellis Co. Registration is for Malathion 5 Pyrethrum 0.1 Dust P.B. to be used on mushrooms to control mites and phorid and sciarid flies. July 13, 1984.

EPA SLN No. WA 84 0055. Mobay Chemical Corp. Registration is for Nemacur 15% Granular to be used on raspberries to control nematodes. July 13, 1984.

EPA SLN No. WA 84 0056. Mobay Chemical Corp. Registration is for Nemacur 3 Emulsifiable to be used on raspberries to control nematodes. July 13, 1984.

EPA SLN No. WA 84 0057. Mobay Chemical Corp. Registration is for Roundup Herbicide to be used on fallow grounds and reduced tillage systems to control annual weeds. July 16, 1984.

EPA SLN No. WA 84 0058. Chevron Chemical Co. Registration is for Ortho Monitor 4 Spray to be used on seed carrots to control lygus bugs. July 16, 1984.

EPA SLN No. WA 84 0059. Velsicol Chemical Corp. Registration is for Weedmaster Herbicide to be used on croplands between plantings of wheat to control broadcast weeds. July 20, 1984. July 20, 1984.

(Sec. 24, amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: December 19, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33942 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240054; FRL-2746-4]

State Registration of Pesticides; Alabama, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 29 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, D.C.

Office location and telephone number: Rm. 726A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7116).

SUPPLEMENTARY INFORMATION: Most of the registration listed below were received by the EPA in June 1984. Receipts of State special local need registrations will be published periodically. The following registrations do not involve changed-use patterns. The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from nonfood to food use, outdoor to indoor use, ground to aerial application, terrestial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. AL 84 0003. Mobay Chemical Corp. Registration is for Bayleton 50% WP to be used on pine seed nurseries to control Fusiform rust (*Cronartium quercuum*). June 15, 1984.

Arizona

EPA SLN No. AZ 84 0003. Wilbur Ellis Co. Registration is for Red-Top Methyl Parathion 4 Spray to be used on alfalfa, artichokes, carrots, celery, peppers, beans, cabbages, cauliflower, broccoli, brussels sprouts, beets, and cotton to control aphids, armyworms, and leafhoppers. June 26, 1984.

Arkansas

EPA SLN No. AR 84 0013. Chevron Chemical Co. Registration is for Othene 75S Soluble Powder to be used on mounds to control fire ants. June 11, 1984.

EPA SLN No. AR 84 0014. Chevron Chemical Co. Registration is for Orthene Tree and Ornamental Spray to be used on mounds to control fire ants. June 11, 1984.

EPA SLN No. Ar 84 0015. Ciba-Geigy Corp. Registration is for Cotoran 80W Herbicide to be used on cotton to control broadleaf weeds. June 11, 1984.

EPA SLN No. AR 84 0016. Merch and Co., Inc. Registration is for Mertect 340–F to be used in poultry houses to control *Aspergillus spp.* spores. June 11, 1984.

EPA SLN No. AR 84 0017. PBI/Gordon Corp. Registration is for Quadmec to be used on turf to control crabgrass and broadleaf weeds. June 11, 1984.

California

EPA SLN No. CA 84 0190. Madera County Dept. of Agriculture. Registration is for Ficam D, Dexol Dexa-Klor Dust, and Dexol Dexa-Klor Dust Indoor/Outdoor Use to be used in rodent burrows to control fleas. June 4, 1984.

EPA SLN No. CA 84 0191. Modoc County Dept. of Agriculture. Registration is for Ground Spuirrel Paste to be used on rangelands, pastures, croplands, and nonagricultural areas to control ground squirrels. June 6, 1984.

EPA SLN No. CA 84 0192. Mobay Chemical Corp. Registration is for Di-Syston Emulsifiable to be used on asparagus to control aphids and thrips. June 4, 1984.

EPA SLN No. CA 84 0193. Plumas County Dept. of Agriculture. Registration is for Ground Squirrel Paste to be used on rangelands, pastures, and croplands to control ground squirrels. June 22, 1984.

EPA SLN No. CA 84 0194. Yuba County Dept. of Agriculture. Registration is for Liqui-Stik Concentrate to be used in pear orchards to control preharvest fruit drop. June 15, 1984.

Connecticut

EPA SLN No. CT 84 0002. Penick Corp. Registration is for Noxfire Insecticide With Rotenone Emulsifiable Concentrate 5% Fire Ant Drench Formula II to be used on potatoes and eggplants to control potato beetles. June 25, 1984.

Delaware

EPA SLN No. DE 84 0005. SDS Biotech Corp. Registration if for Bravo 500 to be used on tomatoes to control anthracnose. June 27, 1984.

Florida

EPA SLN No. FL 84 0016. The Land, Epcot Center. Registration is for Bordeaux Mixture Acme to be used on crops grown in The Land, Epcot Center, to control pests listed on the EPA-registered label. June 8, 1984.

EPA SLN No. FL 84 0017. The Land, Epcot Center. Registration is for Agri-Strep Type D to be used on crops grown in The Land, Epcot Center, to control pests listed on the EPA-registered label. June 8, 1984.

EPA SLN No. FL 84 0018. The Land, Epcot Center. Registration is for Kocide 101 to be used on crops grown in The Land, Epcot Center, to control pests listed on the EPA-registered label. June 8, 1984.

Georgia

EPA SLN No. GA 84 0002. Merck & Co., Inc. Registration is for Mertect 340–F to be used in poultry houses to control *Aspergillus spp.* spores. June 29, 1984.

Hawaii

EPA SLN No. HI 84 0006. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on nonbearing macadamia nut plantings to control broadleaf weeds. June 12, 1984.

Idaho

EPA SLN No. ID 84 0010. Pennwalt Corp. Registration is for Penncap Insecticide to be used on lentils to control aphids and lygus bugs. June 27, 198.

Indiana

EPA SLN No. IN 84 0006. Witco Corp. Registration is for GB–1356 Mosquito Larvacide to be used in swamps and floodwater areas to control mosquitoes. June 14, 1984.

Louisiana

EPA SLN No. LA 84 0013. Pennwalt Corp. Registration is for Topsin M 70W Fungicide to be used on soybeans to control aerial blight (*Rhizoctonia solani*). June 11, 1984.

EPA SLN No. LA 84 0014. Pennwalt Corp. Registration is for Topsin M 4.5 Fungicide to be used on soybeans to control aerial blight (*Rhizoctonia solani*). June 11, 1984.

Maryland

EPA SLN No. MD 84 0003. Penick Corp. Registration is for Noxfire Insecticide With Rotenone Emulsifiable Concentrate 5% Fire Ant Drench Formula II to be used on potatoes to control Colorado potato beetles. June 14, 1984.

EPA SLN No. MD 84 0004. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on sweetcorn to control armyworms and corn earworm larvae. June 20, 1984.

Massachusetts

EPA SLN No. MA 84 0003. Chevron Chemical Co. Registration is for Orthene 75S Soluble Power to be used on cranberries to control fireworms, spanworms, and sparaganothis. June 4, 1984.

EPA SLN No. MA 84 0004. Chevron Chemical Co. Registration is for Difolatan 80 Sprills to be used on cranberries to control fruit rot. June 4, 1984.

EPA SLN No. MA 84 0005. Lesco, Inc. Registration is for Par-Ex 27–3–5 Fertilizer With 1.5% Oftanol to be used on turf grasses to control white grub larvae, chinch bugs, and sod webworms. June 4, 1984.

EPA SLN No. MA 84 0006. Lesco, Inc. Registration is for Lesco Oftanol 1.5% GR to be used on turf grasses to control soil insects and surface insects. June 4, 1984.

Michigan

EPA SLN No. MI 84 0013. Pennwalt Corp. Registration is for Topsin M 4.5F Fungicide to be used on soybeans to control aerial blight. June 15, 1984.

EPA SLN No. MI 84 0014. Pennwalt Corp. Registration is for Topsin M 70W Fungicide to be used on soybeans to control aerial blight. June 15, 1984.

Mississippi

EPA SLN No. MS 84 0012. Mobay Chemical Corp. Registration is for Guthion 2L to be used on cotton to control boll weevils. June 13, 1984.

EPA SLN No. MS 84 0016. E.I. Du Pont de Nemours & Co. Registration is for DuPoint Lexone 4L Weed Killer to be used on soybeans to control sicklepod. June 25, 1984.

EPA SLN No. MS 84 0017. E.I. Du Pont de Nemours & Co. Registration is for DuPont Lexone DF™ Weedkiller to be used on soybeans to control sicklepod. June 25, 1984.

EPA SLN No. MS 84 0018. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on outer clothes to control ticks, chiggers, and mosquitoes. June 27, 1984.

Montana

EPA SLN No. MT 84 0006. FMC Corp. Registration is for Dimethoate 267 to be used on lentils to control lygus bugs and aphids. June 20, 1984.

Nevada

EPA SLN No. NV 84 0003. Dow Chemical Co. Registration is for Dursban Termiticide Concentrate to be used in soil and around structural elements to control termites. June 27, 1984.

New Jersey

EPA SLN No. NJ 84 0010. Mobay Chemical Corp. Registration is for Mesurol® Wettable Powder to be used on corn to control snails and slugs. June 12, 1984.

EPA SLN No. NJ 84 0011. Ciba-Geigy Corp. Registration is for D–Z–N®

Diazinon 14G to be used on cranberries to control *Chrysotheuchia topiaria* (cranberry girdler). June 19, 1984.

EPA SLN No. NJ 84 0012. Chevron Chemical Co. Registration is for Difolatan 80 Sprills to be used on cranberries to control fruit rot. June 27, 1984.

EPA SLN No. NJ 84 0015. Penick Corp. Registration is for Scourge Insecticide W/SBP-1382/PBO 4% + 12% MF Formula II to be used on grounds, shrubbery, and vegetation around stagnant pools, marshy areas, ponds, and shorelines to control adult mosquitoes, midges, and blackflies. June 11, 1984.

New Mexico

EPA SLN No. NM 84 0004. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on outer clothing to control ticks, chiggers, and mosquitoes. June 13, 1984.

New York

EPA SLN No. NY 84 0002. Mobay Chemical Corp. Registration is for Mesurol (75%) Wettable Powder to be used on corn to control slugs and snails. June 8, 1984.

Ohio

EPA SLN No. OH 84 0002. Mobay Chemical Corp. Registration is for Mesurol (75%) Wettable Powder to be used on corn to control slugs and snails. June 18, 1984.

Rhode Island

EPA SLN No. RI 84 0003. Penick Corp. Registration is for Noxfire Insecticide With Rotenone Emulsifiable Concentrate 5% Fire Ant Drench Formula II to be used on lawns, gardens, and grounds to control fire ants. June 29, 1984.

Tennessee

EPA SLN No. TN 84 0004. FMC Corp. Registration is for furadan 4F Insecticide to be used on sorghum to control greenbugs. June 4, 1984.

Vermont

EPA SLN No. VT 84 0002. Penick Corp. Registration is for Noxfire Insecticide With Rotenone Emulsifiable Concentrate 5% Fire Ant Drench Formula II to be used on potatoes to control Colorado potato beetles. June 24, 1984.

Virginia

EPA SLN No. VA 84 0005. PBI/Gordon Corp. Registration is for Quadmec to be used on bluegrass and Bermudagrass to control broadleaf weeds, grass weeds, and nutsedge. June 8, 1984.

Washington

EPA SLN No. WA 84 0036. Mobay Chemical Corp. Registration is for "Di-Syston 8 Emulsifiable to be used on asparagus to control aphids and thrips. June 1, 1984.

EPA SLN No. WA 84 0037. Chevron Chemical Co. Registration is for Difolatan 80 Sprills to be used on potatoes to control early blight. June 1, 1984.

EPA SLN No. WA 84 0038. Aceto Agricultural Chemicals Corp. Registration is for Phorate 15-G to be used on field corn to control leaf aphids, mites, and corn earworms. June 11, 1984.

EPA SLN No. WA 84 0039. Platte Chemical Co. Registration is for Clean Crop Phorate 15G Systemic Insecticide to be used on field corn to control corn leaf aphids, mites, and earworms. June 11, 1984.

EPA SLN No. WA 84 0040. Aceto Agricultural Chemicals Corp. Registration is for Rampart 10G to be used on field corn to control aphids, mites, and earworms. June 11, 1984.

EPA SLN No. WA 84 0041. Platte Chemical Co. Registration is for Clean Crop Rampart 10G Systemic Insecticide to be used on field corn to control corn leaf aphids, mites, and earworms. June 11, 1984.

EPA SLN No. WA 84 0042. Chas. H. Lilly Co. Registration is for Lilly/Miller Alphaspra to be used on apple and pear trees to prevent preharvest fruit drop. June 8, 1984.

EPA SLN No. WA 84 0044. Aceto Agricultural Chemicals Corp. Registration is for Rampart 10G to be used on hops to control aphids. June 11, 1984.

EPA SLN No. WA 84 0045. Platte Chemical Co. Registration is for Clean Crop Dinitro 3 Herbicide to be used on brush to promote desiccation. June 21, 1984.

EPA SLN No. WA 84 0046. Uniroyal Chemical. Registration is for Uniroyal Dinoseb-3 to be used on brush to promote desiccation. June 21, 1984.

EPA SLN No. WA 84 0047. Chas. H. Lilly Co. Registration is for Lilly/Miller Alphaspra 200 to be used on apple and pear orchards to thin fruit. June 18, 1984.

EPA SLN No. WA 84 0048. Rhone Poulenc, Inc. Registration is for Buctril to be used on field and silage corn to control weeds. June 22, 1984.

West Virginia

EPA SLN No. WV 84 0003. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on outer garments to control ticks, chiggers, and mosquitoes. June 12, 1984.

Wisconsin

EPA SLN No. WI 84 0003. Chevron Chemical Co. Registration is for Ortho Diquat Herbicide to be used on ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, streams, and rivers to control duckweed, watermilfoil, and elodea. June 26, 1984.

(Sec. 24, as amended, 92 Stat. 825 (7 U.S.C. 136))

Dated: December 19, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33944 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240053; FRL-2746-5]

State Registration of Pesticides; Arkansas, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 26 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the Federal Register.

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 726A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7116).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by the EPA in May 1984. Receipts of State registrations will be published periodically. Only one of the following registrations involves a changed-use pattern and is identified by the abbreviation (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change

from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Arkansas

EPA SLN No. AR 84 0009. FMC Corp. Registration is for Pounce * Plus Methyl Parathion 2–5 EC Insecticide to be used on cotton to control cotton bollworms, tobacco budworms, fleahoppers, tarnished plant bugs, boll weevils, lygus bugs, cabbage loopers, and cotton leafperforators. May 7, 1984.

EPA SLN No. AR 84 0010. Chevron Chemical Co. Registration is for Ortho Paraquat Plus to be used on alfalfa to control annual grasses and broadleaf weeds. May 7, 1984.

EPA SLN No. AR 84 0011. FMC Corp. Registration is for Furadan 4F Insecticide to be used on small grains (wheat, oats, and barley) to control greenbugs and aphids. May 7, 1984.

EPA SLN No. AR 84 0012. Dow Chemical Co. Registration is for Dursban TC Termiticide Concentrate to be used on plenumtype soil to control termites. May 14, 1984.

California

EPA SLN No. CA 84 0172. Stauffer Chemical Co. Registration is for Ordram 8–E to be used in post-flood and post-emergence ground application for no-till or minimum-till drill-seeded rice to control watergrass. May 9, 1984.

EPA SLN No. CA 84 0178. Stanislaus County Dept. of Agriculture. Registration is for Mesurol 75% Wettable Powder to be used in cherry growing areas to control fruit-feeding birds (grackles, starlings, finches, jays, cedar wax-wings, robbins, and sparrows). May 2, 1984.

EPA SLN No. CA 84 0179. Plumas County Dept. of Agriculture. Registration is for Marmot and Squirrel Bait to be used in nonagricultural areas to control marmots, woodchucks, Oregon and Belding ground squirrels. May 4, 1984.

EPA SLN No. CA 84 0180. Kern's County Dept. of Agriculture. Registration is for Ortho Paraquat Plus to be used on asparagus (postharvest) to control nutgrasses and nutsedges. May 7, 1984.

EPA SLN No. CA 84 0181. Ventura County Dept. of Agriculture. Registration is for Lorsban 4E Insecticide to be used on citrus and avocados to control snails. May 21, 1984.

EPA SLN No. CA 84 0182. Madera County Dept. of Agriculture. Registration is for Marmot and Squirrel Bait to be used in nonagricultural areas to control marmots, woodchucks, Oregon and Belding ground squirrels. May 14, 1984.

EPA SLN No. CA 84 0183. Madéra County Dept. of Agriculture. Registration is for Kangaroo Rat Bait to be used on rangelands, pastures, and croplands to control kangaroo rats. May 14, 1984.

EPA SLN No. CA 84 0184. Madera County Dept. of Agriculture. Registration is for Jackrabbit Bait to be used on rangelands, pastures, croplands, and nonagricultural areas (around airports only) to control jackrabbits. May 14, 1984.

EPA SLN No. CA 84 0185. Madera County Dept. of Agriculture. Registration is for Ground Squirrel Bait to be used on rangelands, pastures, and croplands to control ground squirrels. May 14, 1984.

EPA SLN No. CA 84 0186. Madera County Dept. of Agriculture. Registration is for Horned Lark Bait to be used on croplands to control horned larks. May 14, 1984.

EPA SLN No. CA 84 0187. Madera County Dept. of Agriculture. Registration is for Sparrow Bait to be used on croplands and structures to control house sparrows and white and golden-crowned sparrows. May 14, 1984.

EPA SLN No. CA 84 0188. Madera County Dept. of Agriculture. Registration is for House Finch (Linnet) Bait to be used on croplands to control house finches. May 14, 1984.

EPA SLN No. CA 84 0189. Madera County Dept. of Agriculture. Registration is for Blackbird and Cowbird Bait to be used in areas birds frequent to control blackbirds and cowbirds. May 14, 1984.

Delaware

EPA SLN No. DE 84 0004. Mobay Chemical Co. Registration is for Mesurol 75% WP to be used on corn to control snails and slugs. May 9, 1984.

Idaho

EPA SLN No. ID 84 0006. Farmers Union Central Exchange, Inc. Registration is for Cenex Dinex III to be used on lentils to control broadleaf weeds, May 9, 1984.

EPA SLN No. ID 84 0007. Union Carbide Agricultural Products Co., Inc. Registration is for ME4 Brominal Bromoxynil Broadleaf Herbicide to be used on mint to control groundsel, purple mustard, shepherdspurse, mare's-tail, and Chinese lettuce weeds. May 11, 1984.

EPA SLN No. ID 84 0008. Weedmaster Herbicide. Registration is for Dicamba and 2,4–D to be used on croplands (rotated to wheat) to control broadleaf weeds. May 15, 1984.

Illinois

EPA SLN No. IL 84 0004. Degesch America, Inc. Registration is for Degesch Magtoxin Pellets Prepac to be used in bins, silos, holding tanks, food and feed processing equipment, conveyers, and related equipment to control confused flour beetles, red flour beetles, and other stored-product insects listed on the EPA-registered label. May 3, 1984.

EPA SLN No. IL 84 0005. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on field corn and sorghum to control hemp dogbane. May 3, 1984.

Kansas

EPA SLN No. KS 84 0001. Degesch American, Inc. Registration is for Degesch Magtoxin Pellets Prepac to be used in bins, silos, holding tanks, food and feed processing equipment, and conveyers to control confused flour beetles. May 7, 1984.

Louisiana

EPA SLN No. LA 84 0010. FMC Corp. Registration is for Pounce Plus Methyl Parathion 2–5EC Insecticide to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, soybean loopers, velvetbean caterpillars, and bean leaf beetles. May 9, 1984.

EPA SLN No. LA 84 0011. Union Carbide Agricultural Products Co., Inc. Registration is for Amiben Chloramben Herbicide to be used between mulched tomato and pepper beds to control weeds. May 14, 1984.

EPA SLN No. LA 84 0012. New Orleans Mosquito Control Board. Registration is for Cythion to be used in areas of high-density building construction and areas with other physical obstructions to control adult mosquitoes. May 15, 1984.

Maryland

EPA SLN No. MD 84 0001. Prentiss Drug and Chemical Co., Inc. Registration is for Prentox Rotenox 5 EC to be used on potatoes, tomatoes, and eggplant to control Colorado potato beetles. May 16, 1984.

EPA SLN No. MD 84 0002. Mobay Chemical Corp. Registration is for Mesurol 75% Wettable Powder to be used on corn to control snails and slugs. May 22, 1984.

Massachusetts

EPA SLN No. MA 84 0002. Lesco, Inc. Registration is for Lesco 24–4–12

Fertilizer With 1.5% Oftanol to be used on turf grasses to control white grub larvae, bullbugs, chinch bugs, sod webworm larvae, and mole crickets. May 15, 1984.

Michigan

EPA SLN No. MI 84 0007. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on asparagus to control emerged annual broadleaf weeds and grasses and for top kill and suppression of perennial weeds. May 8, 1984.

EPA SLN No. MI 84 0009. FMC Corp. Registration is for Captan 80 WP and Captan 50–W to be used on blueberries to control anthracnose, fruit rot, and botrytis gray mold. May 31, 1984.

Mississippi

EPA SLN No. MS 84 0010. Degesch America, Inc. Registration is for Degesch Magtoxin Pellets-Prepac to be used in bins, silos, holding tanks, food and feed processing equipment, and conveyers to control confused flour beetles and red flour beetles. May 11, 1984.

EPA SLN No. MS 84 0011. FMC Corp. Registration is for Pounce Plus Methyl Parathion 2–5EC Insecticide to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, soybean loopers, velvetbean caterpillars, bean leaf beetles, alfalfa loopers, garden webworms, stink bugs, and three-cornered leaf hoppers. May 24, 1984.

Missouri

EPA SLN No. MO 84 0003. Mobay Chemical Corp. Registration is for *Sencor DF 75% Dry Flowable Herbicide to be used on dryland winter wheat to control annual bluegrass, cheat, downy brome, green foxtail, yellow foxtail, little barley, common chickweed, common lambsquarter, henbit, prostrate pigweed, redroot pigweed, Virginia pepperweed, shepherdspurse, field pennycress, and wild mustard. May 31, 1984.

EPA SLN No. MO 84 0004. Mobay Chemical Corp. Registration is for *Sencor Flowable to be used on dryland winter wheat to control annual bluegrass, cheat, downy brome, green foxtail, yellow foxtail, little barley, common chickweed, common lambsquarter, henbit, prostrate pigweed, redroot pigweed, Virginia pepperweed, shepherdspurse, field pennycress, and wild mustard. May 31, 1984.

EPA SLN No. MO 84 0005. Degesch America, Inc. Registration is for Degesch Magtoxin* Pellets-Prepac to be used in bins, silos, holding tanks, food and feed processing equipment, conveyers, and related equipment to control confused flour beetles, red flour beetles, and other stored-product insects. May 31, 1984.

Nebraska

EPA SLN No. NE 84 0004. American Cyanamid Co. Registration is for Counter Systemic Insecticide-Nematicide to be used on field corn (excluding sweet, pop, and seed corn) to control European corn borers and spider mites. (CUP—ground to aerial application). May 3, 1984.

EPA SLN No. NE 84 0005. SDS Biotech Corp. Registration is for Bravo 500 to be used on dry beans to control rust, anthracnose, downy mildew, and cercospora leafspot diseases. May 3, 1984.

New Jersey

EPA SLN No. NJ 84 0008. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on sweet corn to control armyworms and corn earworm larvae. May 22, 1984.

EPA SLN No. NJ 84 0009. Penick Corp. Registration is for Noxfire Insecticide With Rotenone Emulsifiable Concentrate 5% Formula II to be used on potatoes, tomatoes, and eggplant to control Colorado potato beetles. May 29, 1984.

New York

EPA SLN No. NY 84 0001. Penick Corp. Registration is for Noxfire Insecticide With Rotenone Emulsifiable Concentrate 5% Fire Ant Drench Formula II to be used on potatoes to control Colorado potato bettles. May 18, 1984.

Oklahoma

EPA SLN No. OK 84 0008. Uniroyal Chemical. Registration is for Terraclor 75% WP to be used on peanuts to control southern blight (*Sclerotium rolfsii*). May 1, 1984.

EPA SLN No. OK 84 0009. Uniroyal Chemical. Registration is for Terraclor 2 Lb. Emulsifiable to be used on peanuts to control southern blight. May 24, 1984.

EPA SLN No. OK 84 0010. Velsicol Chemical Co. Registration is for Banvel Herbicide to be used on fall-seeded wheat to control annual weeds. May 1, 1984.

EPA SLN No. OK 84 0011. Uniroyal Chemical Co. Registration is for Terraclor 10% Gr. to be used on peanuts to control southern blight (*Sclerotium rolfsii*). May 1, 1984.

Oregon

EPA SLN No. OR 84 0031. E.I. Du Pont De Nemours & Co. Registration is for Du Pont Benlate Fungicide and Du Pont Manzate 200 Flowable Fungicide to be used on wheat to control septoria leaf and glume blotch. May 7, 1984.

EPA SLN No. OR 84 0032. Mobay Chemical Corp. Registration is for *Di-Syston 8 Emulsifiable Insecticide to be used on asparagus to control aphids and thrips. May 29, 1984.

Pennsylvania

EPA SLN No. PA 84 0004. Prentiss Drug and Chemical Co. Registration is for Prentox Rotenox 5 EC to be used on potatoes, tomatoes, and eggplants to control Colorado potato beetles. May 1, 1984.

EPA SLN No. PA 84 0005. FMC Corp. Registration is for Furadan 15G to be used on cucumbers, melons, squash, and pumpkins to control nematodes and striped cucumber beetels. May 15, 1984.

EPA SLN No. PA 0006. Penick Corp. Registration is for Noxfire Insecticide With Rotenone EC 5% Fire Ant Drench Formula II to be used on lawns, gardens, grounds around buildings, fields, agricultural land, golf courses, recreational areas, and camp grounds to control individual fire ant mounds. May 16, 1984.

EPA SLN No. PA 84 0007. Mobay Chemical Co. Registration is for Mesurol 75% Wettable Powder to be used on corn to control slugs and snails. May 30, 1984.

EPA SLN No. PA 84 0008. Dow Chemical U.S.A. Registration is for Lorsban* 4E Insecticide to be used on sweet corn to control armyworms and corn earworm larvae. May 31, 1984.

Rhode Island

EPA SLN No. RI 84 0001. Prentiss Drug and Chemical Co. Registration is for Prentox Rotenox™ 5 EC to be used on potatoes, tomatoes, and eggplants to control Colorado potato beetles. May 11, 1984.

EPA SLN No. RI 84 0002. Fairfield American Corp. Registration is for Rotacide™ EC to be used on potatoes, eggplants, and tomatoes to control Colorado potato beetles. May 22, 1984.

South Carolina

EPA SLN No. SC 84 0002. Penick Corp. Registration is for Scourge Insecticide with SBP–1382/Piperonyl Butoxide 18% + 54%MF–FII to be used in recreational and residential areas to control mosquitoes. May 11, 1984.

EPA SLN No. SC 84 0003. Penick Corp. Registration is for Scourge Insecticide W/SBP–1382/PBP 4% + 12% MF Formula II to be used in recreational and residential areas to control adult mosquitoes and adult flies. May 14, 1984.

Texas

EPA SLN No. TX 84 0015. Uniroyal Chemical Co. Registration is for Terraclor 2LB Emulsifiable to be used on peanuts to control southern blight (*Sclerotium rolfsii*). May 3, 1984.

EPA SLN No. TX 84 0016. Bell Laboratories, Inc. Registration is for ZP Rodent Bait AG to be used on rangelands to control blacktailed prairie dogs and squirrels. May 14, 1984.

Utah

EPA SLN No. UT 84 0005. FMC Corp. Registration is for Dimethoate 267 to be used on cherries to control cherry fruit flies. May 14, 1984.

EPS SLN No. UT 84 0006. FMC Corp. Registration is for Aqua 8 Parathion to be used on uninhabited lands that are immediately adjacent to the Great Salt Lake to control mosquitoes. May 14, 1984.

Virginia

EPA SLN No. VA 84 0003. Mobay Chemical Corp. Registration is for Mesurol 75% Wettable Powder to be used on corn to control snails and slugs. May 22, 1984.

EPA SLN No. VA 84 0004. Ciba-Geigy Corp. Registration is for D-Z-N®, Diazinon 14G to be used in recreation areas to control lone star ticks. May 24, 1984.

Washington

EPA SLN No. WA 84 0033. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC to be used on Douglas fir nurseries and seek orchards to control insects. May 15, 1984.

EPA SLN No. WA 84 0034. Penick Corp. Registration is for Scourge Insecticide with SBP-1382/Piperonyl Butoxide 18% + 54% MF Formula II to be used on noncrop lands to control mosquitoes. May 22, 1984.

EPA SLN No. WA 84 0035. American Cyanamid Co. Registration is for Thimet 20-G Soil and Systemic Insecticide to be used on hops to control mites and aphids. May 30, 1984.

West Virginia

EPA SLN No. WV 84 0002. Mobay Chemical Corp. Registration is for Mesurol 75% Wettable Powder to be used on corn to control snails and slugs. May 15, 1984.

Wisconsin

EPA SLN No. WI 84 0002. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on spearmint and peppermint grown in muck soils to control prostrate knowtweed, redroot pigweed, and common purslane. May 16, 1984.

(Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: December 19, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33943 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30216B; PH-FRL 2747-6]

Bell Laboratories, Inc.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Bell Laboratories, Inc., to conditionally register the pesticide product Quintox ™ Rat and Mouse Bait containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By Mail: Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** on April 14, 1982 (47 FR 16098), which announced that Bell Laboratories, Inc., 3699 Kinsman Blvd., Madison, WI 53704, had submitted an application to conditionally register the pesticide product "Ro-Tox" a rodenticide containing the active ingredient activated 7-dehydrochlesterol, [vitamin D_3] at .075 percent; and active ingredient not included in any previously registered product.

The application was approved on November 9, 1984 as "Quintox ™ Rat and Mouse Bait" for use in and around buildings and inside of transport vehicles.

The active ingredient identified in the application as "activated 7-dehydrochlesterol, [vitamin D_3]," was revised to read "cholecalciferol [vitamin D_3]" as approved. The product was assigned EPA Registration No. 12455-39.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 162.11; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of cholecalciferol [vitamin D_3], and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of cholecalciferol [vitamin D_3] during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

This registration has been issued on the condition that the following information is submitted by the listed date:

Type of submission	Deadline for submission
1. Laboratory tests completed but not submitted and details on experimental program.	Dec. 1, 1984.
2. All outstanding laboratory tests	Jan. 1, 1985.
3. Acceptable field tests:	
a. First interim report	May 1, 1985.
b. Second interim report	Sept. 1, 1985.
c. Final report	Jan. 1, 1986.

Because the Agency had suspended, and then re-instated, the efficacy requirements for this type of product, the Company had not completed all the pre-suspension data. However, sufficient data were submitted to assure the Agency that the product would perform adequately in actual use situations.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of this pesticide is of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticide will not result in unreasonable adverse effects to man and the environment.

More detailed information on this conditional registration is contained in a Chemical Fact Sheet on cholecalciferol [vitamin D_3].

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may

be obtained from Registration Division (TS-767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM No. 2, Arlington, VA 22202 (703-557-3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460.

Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(4)(5) FIFRA, as amended)

Dated: December 21, 1984.

S. Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33966 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100019; PH-FRL 2747-5]

California Department of Food and Agriculture; Transfer of Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA intends to transfer to the California Department of Food and Agriculture (CDFA) certain confidential business information (CBI) submitted to EPA by pesticide registrants under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Specifically, EPA will provide California with a list on computer magnetic tape of registration numbers and inert ingredients for pesticide products registered under FIFRA which are also registered by California for use within that State. EPA therefore will be transferring to California in computerized form CBI which California already retains in manual form and which has been submitted to California by the pesticide registrants. The CDFA has requested this information in computerized form to support a program of evaluating inert ingredients in products registered for use in California.

DATE: The transfer of FIFRA CBI to the CDFA will occur no sooner than February 1, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Information Services Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703-557-2613).

SUPPLEMENTARY INFORMATION: The requirement for registration of pesticides by EPA is set out in section 3 of FIFRA, 7 U.S.C. 136 et seq. Disclosure of data required to be submitted to EPA under FIFRA is governed by section 10 of the statute, which generally prohibits unauthorized disclosure of confidential information on inert ingredients of a pesticide.

From information submitted by registrants, EPA has produced on computer magnetic tape a list of registered pesticide products, by registration number, and the inert ingredients contained in them. The registrants have claimed this inert ingredient information as CBI. Before pesticides may be used in California, they must be registered with the State under its Food and Agricultural Code. As a part of its registration requirements, California obtains information on the inert ingredients contained within the registered products. Therefore, the CDFA already possesses confidential inert ingredient information for pesticide products registered by California. The State obtained this information from the registrants and maintains it in manual registration files.

The CDFA has requested that EPA provide it with this agency's computerized list of registered pesticides and inert ingredients for those pesticides also registered by California. The CDFA can then add this product inert information to its existing computerized product registration data base with a minimum of cost and delay. Having this information in computerized form will enable the State to conduct complex computer searches needed to support a program of evaluating inert ingredients in products registered for use in California. The State has asserted that this need cannot properly be met if the same search has to be done through its manual files.

While release of FIFRA CBI to State agencies with responsibilities for protection of public health is permitted under EPA's regulations at 40 CFR 2.307(h) to prevent imminent harm, such is not the case being made here. Instead, EPA believes that release of this CBI to California is not in violation of FIFRA section 10 because EPA is providing information which California already possesses, but it is providing it in a form that is more readily usable by the State for official purposes than the form in which it already has the information.

EPA has determined that the provision of this material to the CDFA under these circumstances does not constitute a disclosure of protected information undr FIFRA section 10. Nevertheless, if only a limited number of pesticide products were affected, EPA would attempt to contact those companies individually to determine whether and on what basis any company objected to this limited disclosure. Since the number of affected companies is too large for EPA to do this, EPA is issuing this notice to inform producers of pesticides registered in California that this limited disclosure to California will be made. No release of CBI will be made until 30 days after publication of this notice. Affected pesticide producers may contact EPA if they object to or have questions about this disclosure. The EPA official to be contacted is William C. Grosse at the address and telephone number listed in this notice.

EPA will impose strict controls on the transfer of this information to ensure that no confidential inert ingredient information on pesticide products other than those registered for use in California will be transferred to the CDFA. The CDFA will impose the same prohibitions against disclosure over the computerized list EPA will provide as it does over the same information in its manual files.

Dated: December 24, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33968 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66116; PH-FPC 2747-7]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation

of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: February 1, 1985.

ADDRESS: By mail, submit comments to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by making any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Lela Sykes, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Washington, D.C. 20460.

Office location and telephone number: Rm. 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
52–231	Totacide	West Chemical Products, Inc., 8 West 40th St., New York, NY 10018	July 11, 1974.
59–67	Cooper 50 pct Malathion Emulsifiable Concentrate	Burroughs Wellcome Co., Wellcome Animal Health Division, 2000 South 11th St., Kansas City, KS 66103.	Nov. 13, 1953.
59–155	Cooper Malathion EM #5	do	May 5, 1969.
108–27	Rawleighs 50 pct Malathion Emulsifiable Concentrate	W.T. Rawleigh Co., 223 East Main St., Freeport, IL 61032	Nov. 28, 1956.
114–89	Vapona Smoke Fumigator	Plant Products Corp., Kennedy Avenue, Blue Point, NY 11715	Mar. 28, 1972.
134–46	Wipe 'N Spray	Rhone-Poulenc Inc., Hess and Clark Division, 7th and Orange St., Ashland, OH 44805.	Nov. 18, 1969.
239–993	Ortho Phosdrin 2 Emulsive	Chevron Chemical Co., 940 Hensley St., Richmond, CA 94801	July 29, 1957.
239–1200	Ortho Phosdrin 4 Emulsive	do	July 22, 1958.
239–1300	Ortho Kelthane 3 Dust	do	Apr. 8, 1959.
239–1348	Ortho Sevin Sulfur 5–40 Dust	do	May 20, 1959.
239–1360	Ortho Sevin Sulfur 7.5–50 Dust	do	May 26, 1959.
239–1361	Ortho Sevin 7.5 Dust	do	Do.
239–1389	Ortho Kelthane 4 Dust	do	July 16, 1959.
239–1412	Ortho Kelthane Malathion 3–3 Dust	do	Aug. 27, 1959.
239–1434	Ortho Sevin 50 Wettable	do	Nov. 23, 1959.
239–1450	Ortho Sevin Sulfur 5–50 Dust	do	Feb. 17, 1960.
239–1570	Ortho Sevin Bean Dust	do	Mar. 6, 1961.
239–1601	Ortho Sevin Sulfur 10–50 Dust	do	Apr. 21, 1961.
239–1688	Ortho Kelthane Sulfur 4–30 Dust	do	Mar. 12, 1962.
239–1726	Ortho G–3 Dust	do	June 8, 1962.
239–1740	Ortho Sevin Sulfur 7.5–75 Dust	do	July 17, 1962.
239–1829	Ortho Sevin 80 Dust Concentrate	do	June 10, 1963.
239–1967	Ortho G Sulfur 3–30 Dust	do	July 27, 1964.
239–1992	Ortho Kelthane 5 Dust	do	Sept. 10, 1964.
239–1997	Ortho Trithion Sevin 2–5 Dust	do	Sept. 18, 1964.
239–2046	Ortho Kelthane-Sulfur 4–40 Dust	do	Nov. 12, 1964.
239–2087	Ortho Kelthane Sulfur 4–50 Dust	do	Apr. 23, 1965.
239–2105	Ortho Ornamental Custom Blend No. 63	do	June 11, 1965.
239–2467	Ortho Chevron Carbaryl 50 Wettable	do	May 7, 1981.
239–2496	Ortho Micronized Sevin	do	Mar. 16, 1982.
270–60	Farnam Bot-X Horse Wormer Contains Trichlorfon	Farnam Co., Inc., 2230 E. Magnolia St., Phoenix, AZ 85036	May 12, 1971.
270–200	Flora-Guard Ready-To-Use Insecticidal Soap	do	Apr. 6, 1983.
323–41	Holcomb Insemal 100	J.J. Holcomb Mfg., Co., 4415 Euclid Ave., Cleveland, OH 44103	Apr. 26, 1963.
359–202	Chipman Malathion 5L	Rhone-Poulenc Chemical Co., Agrochemical Divisions, Rhone-Poulenc Inc., P.O. Box 125, Monmouth Junction, NJ 08852.	July 28, 1953.
359–401	Chipman Malathion 50 pct Liquid	do	Sept 26, 1960.
359–477	Chipco Malathion 50 pct Liquid	do	Jan. 29, 1962.
359–526	Chipman Malathion Flowable 8	do	June 26, 1963.
359–622	Rhobin	do	June 12, 1969.
359–671	Rhodia Malathion Technical	do	Nov. 20, 1973.
387–1	Glover's Imperial Flea Killer	Glover's Imperial Pharmaceuticals Co., 1001 Franklin Ave., Garden City, NY 11530	Oct. 6, 1952.
400–204	De-Pester Malathion Dust #5	Uniroyal Chemical Division of Uniroyal, Inc., 74 Amity Road, Bethany, CT 06525	July 27, 1956.
400–207	De-Pester Cotton Dust 10–0–0	do	Aug. 22, 1957.
400–218	De-Pester Sevin 50 pct Dust Base	do	May 7, 1964.
400–219	De-Pester Cotton Dust 10–40–0 (Sevin-Sulphur)	do	June 16, 1964.
400–221	De-Pester Cotton Dust 10–0–0 (Sevin)	do	July 22, 1964.
400–245	De-Pester Malathion 4 pct dust	do	Oct. 9, 1967.
400–246	De-Pester Cotton dust 5–0–0	do	Oct. 11, 1967.
400–249	De-Pester Cotton Dust 5–40–0 (Sevin Sulfur)	do	Nov. 13, 1967.
400–250	De-Pester Sevin-Sulfur 10–50 dust	do	Nov. 28, 1967.
400–251	De-Pester Sevin-Sulfur 7.5–50	do	Do.
400–252	De-Pester Sevin-Sulfur 5–50	do	Do.
400–257	De-Pester Malathion 25 Dust Base	do	Mar. 26, 1968.
400–283	De-Pester Cotton Dust 10–75–0 Sevin Sulphur	do	Apr. 22, 1969.
400–286	De-Pester Bagworm and Sod Webworm Spray	do	May 22, 1970.
400–292	T–H Cotton Dust 7.5–40–0 Sevin Sulphur	do	June 30, 1971.
400–294	T–H Cotton Dust 7.5–75–0 Sevin Sulphur	do	June 9, 1971.
400–296	T–H Sevin 10–G	do	June 2, 1971.
400–311	T–H 4 pct Malathion Dust	do	Apr. 21, 1972.
400–313	T–H 7½ pct Sevin Dust	do	June 24, 1958.
400–314	T–H 3 pct Sevin Dust 7 pct Copper Dust	do	Apr. 21 1972.
400–315	T–H 3 pct Sevin Dust	do	June 29, 1959.
400–319	T–H Sevin-Copper Sulfur Dust For Peanuts	do	Apr. 21, 1972.
400–320	T–H 5 pct Sevin-Sulfur Dust	do	May 1, 1962.

Registration No.	Product name	Registrant	Date registered
400-323	T-H Sevin Copper 3.4 Sulfur Peanut Dust	do	Mar. 16, 1964.
400-325	Special Bean Dust	do	Apr. 21, 1972.
400-326	T-H 10 pct Sevin—3.4 Copper—Sulphur Peanut Dust	do	Do.
400-333	T-H 50 pct Concentrate Dust Insecticide	do	July 3, 1967.
400-334	T-H Polyram 5 Sevin 5 Dust Fungicide Insecticide	do	Apr. 21, 1972.
400-340	T-H Polyram 5 Sevin 10 Dust Fungicide-Insecticide	do	Do.
400-354	Malathion Sulfur 8-50	do	Jan. 8, 1974.
400-356	Sevimol 4	do	Oct. 24, 1973.
534-68	F. S. Farmtown Lawn Food Plus	F. S. Services, Inc., 1701 Towanda Ave., Bloomington, IL 61701	July 25, 1975.
554-117	Ultra Mal-Karate	Agsco, Inc., P.O. Box 458, Grand Forks, ND 58201	June 24, 1970.
557-1901	Vigoro Bug Killer	Estech, Inc., 30 N. LaSalle St., Chicago, IL 60602	June 15, 1976.
572-67	Rockland 25 pct Malathion Wettable Powder	Rockland Chemical Co., Inc., P.O. Box 809, West Caldwell, NJ 07006	July 29, 1959.
572-249	Rockland Weed and Grass Killer	do	Oct. 5, 1972.
595-235	Malathion 5-E Premium Grade	Haviland Agricultural Chemical Co., 1845 Sterling NW., Grand Rapids, MI 49502	Nov. 18, 1985.
595-229	Malathion Copper Dust	do	Nov. 15, 1965.
618-85	Top Form Wormer Two	Merck Sharp and Dohme Research Laboratories, Division of Merck and Co., Inc., P.O. Box 2000 Rahway, NJ 07065-0914.	Mar. 27, 1975.
618-86	Equizole 8 Horse Wormer	do	Mar. 27, 1975.
655-24	Prentox Chlordane Technical	Prentiss Drug and Chemical Co., Inc., C. B. 2000, 21 Vernon St., Floral Park, NY 11001.	Aug. 28, 1952.
655-85	Prentox 50 pct Dieldrin Wettable Powder	do	June 17, 1955.
655-86	Prentox 1.5 Dieldrin Emulsifiable Concentrate	do	Do.
655-107	Prentox Aldrin 2 lb. Emulsifiable Concentrate	do	Mar. 11, 1957.
655-140	Prentox 20 pct Dieldrin Oil Soluble Concentrate	do	Dec. 22, 1958.
655-192	Prentox Aldrin 4 lb. Emulsifiable Concentrate	do	May 2, 1960.
655-548	Prentox Aldrin 4E Termiticide	do	May 23, 1974.
706-80	Claire Fast Kill Kills Crawling Insect Residual Roach and Ant Killer.	Claire Manufacturing Co., 500 Vista Ave., Addison, IL 60101	Dec. 31, 1974.
784-79	Malathion Warehouse Insecticide	Consolidated Chemical, Inc., 1470 S. Vandeventer, St. Louis, MO 63110	July 23, 1970.
802-412	Miller's Parathion 25W	Chas. H. Lilly Co., 7737 NE. Killingsworth, Portland, OR 97218	May 9, 1967.
809-11	Minimax Malathion Insecticide	American Disinfectant Co., 928 Eye St., N.W., Washington, DC 20001	Dec. 29, 1959.
829-149	SA-50 Brand 5 pct Trithion Granules	Southern Agricultural Insecticides, Inc., P.O. Box 218, Palmetto, FL 33561-0218	Nov. 19, 1964.
869-33	Green Light Rose Spray W/Systemic Insecticide	Green Light Company, P.O. Box 17985, San Aritonio, TX 78217	Feb. 24, 1958.
904-230	DP-2 Repack	Pratt Gabriel Division, Miller Chemical and Fertilizer Corp., Box 333, Hanover, PA 17331.	July 30, 1975.
904-231	DP-2 Special Insect Spray Concentrate 10	do	Do.
904-316	Malathion 5 Lb. Emulsifiable Concentrate	do	Apr. 2, 1979.
904-320	Malathion 25 pct Dust Concentrate	do	Do.
904-321	Malathion 25 pct Wettable Power	do	Do.
904-322	Malathion 90 pct Concentrate	do	Do.
904-323	Malathion 95 pct Premium (Cythion)	do	Do.
904-366	Malathion 5 Lb. Oil Concentrate	do	Do.
904-378	Malathion Lethane Fogging Concentrate	do	Do.
904-387	Gabriel Malathion Lethane Concentrate	do	Do.
904-388	Gabriel Malathion-Lethane Concentrate (Malathion 50.00 pct For Manufacturing Purposes).	do	Do.
904-401	Gabriel Malathion 50 pct Wettable Power for Manufacturing Use Only.	do	Do.
961-260	Lebanon General Spray	Lebanon Chemical Corp. P.O. Box 180, Lebanon, PA 17042	Do.
961-279	Tri-Cide Systemic Insect Spray contains Metasystox R	do	May 15, 1974.
961-281	Premium Grade Malathion Insect Spray 50 pct	do	Do.
1021-1077	Pyrocide Intermediate 6088	McLaughlin Gormley King Co., 1715 SE. Fifth Street, Minneapolis, MN 55414	Jan. 21, 1970.
1208-20	Plainsman Malathion Emulsifiable Concentrate	Janson Industries, Plainsman Agricultural Chemical, Box 1749, Plainview, TX 79072	May 8, 1959.
1234-70	Flea Bomb-M	Vet Products Co., 12340 Santa Fe Drive, Shawnee Mission, KS 66215	July 1, 1968.
1258-845	Olin Omacide-6 Industrial Biocide	Olin, P.O. Box 30-275, Research Center, 275 So. Winchester Ave., New Haven, CT 06511.	Aug. 3, 1970.
1258-982	Terra Coat ZN-2055	do	July 24, 1975.
1348-200	Selco Dieldrin 15E Emulsifiable	Selco Supply Company, 650 "O" Street, Greeley, CO 80631	Aug. 10, 1966.
1526-391	Kelthane 3	Chemical Distributors, DBA Arizona Agro-chemical Co, P.O. Box 21537, Phoenix, AZ 85036.	Mar. 8, 1967.
1526-454	Phoenix Brand Guthion 3 with 50 pct Sulfur	do	Apr. 23, 1968.
1553-71	Momar Mosquito Kit	Momar Incorporated, 1830 Ellsworth, Industrial Dr. NW., Atlanta, GA 30318	Sept. 26, 1969.
1553-82	Momar Insect-Fog	do	Mar. 16, 1973.
1616-4	Wartasco Grain Fumigant #3	Warren Douglas Chemical Co., Inc., 3002 F Street, Omaha, NE 68107	Do.
1706-102	Nalco 2412 Granular Weed Killer	Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521	Oct. 20, 1971.
1706-103	Nalkil 2411 Granular Weed Killer	do	May 18, 1971.
1757-36	Drewclad C/F Permanent Type Mothproofer for Wool	Drew Chemical Corp., One Drew Chemical Plaza, Boonton, NJ 07005	Mar. 13, 1969.
1769-262	NCH Corporation's Guard-Cote	National Chemsearch, Div. of NCH Corp., 2727 Chemsearch Blvd., Irving, TX 75062	Sept. 9, 1975.
1842-188	Triangle Dusting Sulfur	Triangle Chemical Co., P.O. Box 4528, 206 Lower Elm Street, Macon, GA 31208	July 1, 1964.
1842-212	Wettable Sulfur	do	June 1, 1965.
1842-223	Die-Weed (12) Liquid	do	Sept. 23, 1966.
1842-232	Herban-62 Herban MSMA Surfactant	do	Sept. 7, 1967.
1990-330	Co-Op Herban 21P	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	Aug. 23, 1968.
1990-331	Co-Op Herban 21A	do	Do.
1990-405	Dri-Dust Insecticide	do	June 25, 1981.
1990-407	Sure Death Brand Malathion W-E	do	Do.
1990-416	Sure Death Brand 25 pct Malathion Wettable Powder	do	Do.
1990-420	Woodbury's Malacide Grain Protectant	do	Do.
1990-421	P-M Grain Protectant	do	Do.
1990-449	Sure Death Brand 50 pct Malathion	do	Do.
1990-451	Malathion 5 Dust	do	Do.
1990-470	Sure Death Brand Herban 21P Wettable Powder	do	Do.
1990-505	Malathion Emulsifiable	do	Do.
2124-501	Maxwell Household Insect Spray	W.R. Grace and Co., Agricultural Chemicals, P.O. Box 277, Memphis, TN 38101	Nov. 30, 1966.
2124-768	Wonder Gro(r) Summer Crabgrass Killer	do	May 25, 1972.
2169-60	Patterson's 1 pct Lindane Dust	Patterson Green-Up Co., Div. Curry-Cartwright, Inc., 1400 Union Avenue, Kansas City, MO 64101.	June 24, 1958.
2342-566	10 pct Captan—6 pct Guthion	Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, OK 73125	Aug. 24, 1973.
2626-6	Chlordane 45 Emulsifiable	Chemical Research Products Co., Inc., P.O. Box 6125, Norfolk, VA 23508	Oct. 17, 1952.
2681-31	Lystads Fly Bait	Lystads, 901 University Ave., Grand Forks, ND 58201	Nov. 29, 1963.
3125-190	Guthion 90 Concentrate	Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120	May 17, 1967.
3213-30	Vita Plus Calc-N-Rich/Rabon	Vita Plus Corp., 1508 West Badger Rd., P.O. Box 9126, Madison, WI 53715	Mar. 12, 1982.
3213-31	Vita Plus Phos-N-Rich/20/Rabon	do	DO.
3242-64	Death Blow Tobacco Dust	Cape Fear Chemical, Inc., P.O. Box 695, Elizabethtown, NC 28337	May 6, 1971.

Registration No.	Product name	Registrant	Date registered
3640-41	A-Kill Insect Bomb	Stearns Chemical Corp., P.O. Box 3216, Madison, WI 53701	Apr. 20, 1965.
3640-42	Q-Kill Insect Bomb	do	Do.
3743-270	Apple Dust No. 4	Southern Agricultural Chemical Inc., P.O. Box 527, Kingstree, SC 29556	Apr. 10, 1973.
3886-5	Dawson Malathion No. 3 Concentrate Insecticide	Ferguson Fumigants Inc., 93 Food Lane, Hazlewood, MO 63042	Mar. 25, 1959.
4581-170	Penco Endothal-TCA Herbicide	Pennwalt Corp., Agchem Div., Three Parkway, Philadelphia, PA 19102	Dec. 5, 1961.
4828-16	Term-I-Kill	ABCO, Inc., 230 Industry Blvd., North Huntingdon, PA 15642	Dec. 4, 1961.
4841-53	Micro DSNA Liquid Herbicide	Micro Chemical Co., P.O. Box 711, Winnsboro, LA 71295	Oct. 4, 1972.
5330-03	Stern's Gard Rose and Flower Dust	Stern's Nurseries, Inc., Geneva, NY 14455	Aug. 28, 1962.
5785-26	Terr-O-Gas 70/29/1	Great Lakes Chemical Corp., P.O. Box 2200, West Lafayette, IN 47906	Oct. 6, 1966.
5785-46	E-D-BEE	do	June 22, 1972.
6662-10	Dalco Malrez	Dalco Chemical Co., 14077 Cedar Rd., Cleveland, OH 44118	Jan. 19, 1960.
6723-8	Heptachlor 2 lb. Emulsifiable Concentrate	Red Wing Chemical Co., Inc., 918 McCallie Ave., Chattanooga, TN 37403	Aug. 29, 1973.
6962-26	OUT-CIDE	Madison Bionics, P.O. Box 29805, Atlanta, GA 30359	Jan. 22, 1973.
7393-38	Four Seasons Multi-Purpose Insect Killer	Wonder Chemical Co., Inc., P.O.Box 16193, San Antonio, TX 78216	Apr. 22, 1972.
7943-8	Lawn Master Crabgrass Control	Kaiser Agricultural Chemicals, Prospect Plains Rd., Cranbury, NJ 08512	Mar. 11, 1964.
8590-132	Captan-Guthion-Lead 5-1.5-7 D	Agway, Inc., Fertilizer Chemical Div., Box 4933, Syracuse, NY 13221	June 25, 1965.
8934-74	Ring Around 529	Ring Around Products, Inc., 12000 Ford Rd., Suite 300, Dallas, TX 75234	Feb. 18, 1971.
9313-17	Rose Super Mallet Insecticide	Rose Chemical Products, Inc., 545 Stimmel Rd., P.O. Box 23375, Columbus, Oh 43223.	Aug. 22, 1972.
9342-7	Kerns Sectrol 1044	J. F. Kerns Industries, 9734 Klingerman St., South El Monte, CA 91733	Sept. 9, 1968.
9962-3	Hahn's Flower, Shrub and Shade Tree Spray	Hahn Exterminating Service, 77 West Park Blvd., Mansfield, OH 44906	June 10, 1969.
10272-7	Mantek Steritron Non-Selective Weed Killer	NCH Corporation, 2727 Chemsearch Blvd., Irving, TX 75062	Jan. 24, 1969.
11214-6	DU-VAP 2/1 Insecticide	Target Chemical Co., 17710 Studebaker Rd., Box 1117, Cerritos, CA 90701	June 4, 1974.
11656-5	Russet 7 pct Polyram Dust	Western Farm Service, Inc., 3075 Citrus Circle, Suite 195, Walnut Creek, CA 94598	Jan. 17, 1973.
14775-1	Asgrow Big D Soil Fumigant	Asgrow Florida Co., P. O. Drawer D, Plant City, FL 33566	Feb. 28, 1973.
31938-1	Bio-Serv Malathion-50 pct Emulsifiable Concentrate	Bio-Serv Corp., 1130 Livernois, Troy, Mi 48084	Jan. 31, 1974.
35572-8	Pooltime Algicide 600	Chem-Tab Chemical Corp., 1253 E. Artesia Blvd., Carson, CA 90746	Sept. 3, 1980.
45639-37	Technical Malathion Insecticide Toxicant	Nor-Am Chemical Co., P.O. Box 2678, Wilmington, DE 19805	Mar. 17, 1971.

The Agency has agreed that each cancellation shall be effective February 1, 1985 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Registration Support and Emergency Response Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66116]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in Rm. 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended, 86 Stat. 973, 89 Stat. (751, 7 U.S.C. 136))

Dated: December 21, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33967 Filed 12-31-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Technical Subgroup of Radio Advisory Committee; Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting will hold its next meeting Thursday, January 10, 1985, at 10 a.m. the National Association of Broadcasters, 1771 N Street NW, Washington, D.C.

The Agenda will be:

1. Update of activities related to international matters, generally.

2. Technical issues related to the 1986 Region 2 Conference on expansion of AM band.

3. Other business.

The meeting, a continuing one, will be resumed after the January 10, 1985, session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-33925 Filed 12-31-84; 8:45 am]

BILLING CODE 6712-01-M

[FCC Nos. 84-600, 84-601, and 84-602]

Orders Establishing a Lottery Proceeding for Selection of 800 MHz Specialized Mobile Radio Systems Applicants in the San Diego, Buffalo, and Los Angeles-San Francisco Areas

AGENCY: Federal Communications Commission.

ACTION: Orders establishing a lottery procedure.

SUMMARY: The Commission has adopted three Memorandum Opinion and Orders establishing a random selection lottery procedure to select from among competing applications for 800 MHz Specialized Mobile Radio Systems in the San Diego, Buffalo and Los Angeles-San Francisco area. This action was taken to expedite the applications process because there are no substantial, material differences among the competing applications.

FOR FURTHER INFORMATION CONTACT: Jerold Feldman, Private Radio Bureau (202) 632-7125.

SUPPLEMENTARY INFORMATION:

List Of Subjects in 47 CFR Part 1 and 90

Administrative practice and procedure, Radio.

Memorandum Opinion and Order

In the matter of SMRS applications in the Los Angeles-San Francisco areas, FCC 84-600.

Adopted: December 4, 1984.
Released: December 26, 1984.

By the Commission.

1. On August 10, 1984, the Commission, in accordance with procedures set forth in the *Second*

Report and Order in General Docket No. 81-768, 48 Fed Reg. 27182 (June 13, 1983), initiated by Public Notice (No. 5770) an expedited paper hearing proceeding to select licensees from among competing applicants for Specialized Mobile Radio (SMR) 800 MHz channels in the Los Angeles-San Francisco areas. These areas have been consolidated in one proceeding because spacing rules preclude co-channel grants at proposed transmitter sites which are within 70 miles of each other and some applicants for different service areas are less than 70 miles apart. Only those applications which met the filing requirements as set forth in our *Second Report and Order* in PR Docket No. 79-191, 90 FCC 2d 1281 (1982), are being considered.

2. The Public Notice, citing the comparative criteria established in our *Memorandum Opinion and Order* terminating PR Docket No. 79-191, 48 FR 51917 (November 15, 1983), noted that applicants will be awarded comparative points based upon the following:

(1) Applications proposing to expand an existing loaded trunked system will be awarded two comparative points.

(2) Applications proposing to operate a new trunked system will be awarded one comparative point.

(3) Applications proposing to operate a conventional system will be awarded no comparative point.

3. In accordance with Rule 1.221, applicants were required to file a Notice of Appearance and Statement and serve copies on all other applicants within 30 days. The purpose of the information furnished in the statement was to determine each applicant's comparative points. The Public Notice, sent to each applicant by certified mail, stated that an untimely filing of appearance or failure to respond could result in dismissal for failure to prosecute pursuant to Rules 1.221(c) and 1.961(b). Applicants were given 20 days to submit rebuttals or informal complaints concerning the qualifications or statements of competing applicants.

4. The Public Notice indicated that we would review the information submitted and make a final decision concerning the proper comparative points for each applicant. After the paper proceedings, those applications with the highest number of comparative points would be granted. If sufficient channels were not available to grant all applications with the same number of comparative points, grants in that group would be made in accordance with the Commission's lottery procedures.

5. The Public Notice initiating this proceeding listed 342 applications for SMR stations in the Los Angeles-San Francisco areas. Of these applications the following were dismissed for the reasons shown:

Applicant	File No.	Dismissed	Reason for dismissal
Kenneth and Mildred Aitken	509101	9-25-84	At their request.
Central Radio Telephone, Inc.	509126 509127	10-16-84	At its request.
Communications Repeater Corp.	507849	9-19-84	Do.
Comven, Inc.	508128	9-18-84	Failure to load existing system.
Contact Communications.	506197	9-21-84	At its request.
Charles Nelson, Jr., d/b as Instant Access Communications.	508038	9-24-84	At his request.
Paul Jones Enterprises, Inc.	507737	10-9-84	At its request.
Frederick L. Kahle	508658 508672	10-16-84	At his request.
Motorola, Inc.	507475	9-14-84	At its request.
Motorola, Inc.	507509	9-6-84	Do.
Big Rock Communications Co.	506643	11-30-84	Failure to load existing system.

6. The following applications are also dismissed by this order, for the reasons shown:

Applicant	File No.	Reason for dismissal
Colwell Communication Corp.	506681	Correspondence returned.
Halldark Enterprises	507356	Do.
S & S Communications Systems, Inc.	506682	Do.
Henry Fuentes, d/b/a Two-Guys Communications.	506758	Do.
Arthur A. Brown, d/b/a A & A Communications.	506718	Failure to respond.
Johnny Champ	508291	Do.
Communication Sites, Inc.	506597 506600	Do.
G.C.E. Telephone Co.	507707 507708	Do.
Kidd's Communications Inc.	506615	Do.
MRA Inc.	506680	Do.
Roy Marsh Enterprises	508136	Do.
Michael Investment Corp.	507141	Do.
Repeater Associates, Inc.	506684 506686	Do.
Reynolds of San Bernardino	506609 506619	Do.
Texas Mobile Comm., Inc.	508076	Do.

7. Based on the Notices of Appearance and Statements and clarifying information furnished by several applicants pursuant to our request we have determined that, of the remaining applications, two applications warrant two comparative points for proposing to expand existing loaded trunked systems, 306 applications are each assigned one comparative point for proposing to operate a new trunked system[1] [2] and two applications are assigned no comparative points for proposing to operate conventional systems.

8. Consistent with the August 10, Public Notice and the policies and procedures in our *Second Report and Orders* in General Docket No. 81-768, *supra*, and PR Dockets No. 79-191, *et al.*, *supra*, applications assigned two comparative points will be granted without a lottery if there are sufficient channels available to accommodate such applicants. Therefore, the applications of Mijac Enterprises, Inc. (File no. 507513), to add 5 channels to its existing loaded 5 channel SMR system WYA-655 located in Pomona, California and PMRS (File no. 506751), to add 5 channels to its existing loaded 5 channel SMR system WZN-630 located in Corona, California will be granted.

9. When spectrum remains available but is insufficient to grant applications which are without substantial, material differences[3] and which are assigned one comparative point, those applications will be designated for random selection. Since sufficient channels are not available to grant all 306 applications proposing to operate a new trunked system, grants of these applications, which are listed in the attachment, will be made in accordance with the Commission's lottery procedures.[4] [5]

10. Since there are insufficient channels to grant all one point applications, the zero point applications (File nos. 506152 and 506154) for conventional systems filed by Touch Communications Co. are dismissed by this order.

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[1] The applications of Marcel J. Boulais d/b as Confidential Communications Co. (File nos. 507687, 507691, 507733) and Richard A. Boulais d/b as Private Line Communications Co. (File nos. 507748, 508082, 508083) for systems at the same transmitter site in Los Angeles, San Francisco and Orange, California are included in this group. However, if their rankings in the lottery qualify them to receive a grant, these applications will be designated for hearing since both of the Boulais' have filed applications for 800 MHz systems at the same transmitter sites in Escondido, California, Phoenix, Denver, Atlanta, Boston, New York and Chicago in an apparent abuse of the Commission's applications process and in an apparent attempt to avoid the requirements of Rule 90.627(b).

[2] J-4 Communications and Advanced Mobile Radiotelephone Services, Inc., have filed applications for Review seeking the assignment of two comparative points. Their applications (File nos. 507709 and 509128) will be included in the lottery with other applications assigned one comparative point. If J-4 and Advanced prevail in their appeal before the Commission, their applications will be granted with the other applications awarded two comparative points in this proceeding.

[3] 48 FR 27182, 27195 (June 13, 1983).

[4] There are no substantial, material differences among these applicants since they all propose to operate a new 5 channel trunked SMR system and there are no financial qualifications required for applying for an SMR license. We deem there to be no substantial, material differences among applications which are assigned the same number of comparative points. See *Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945, 960 (1975).

[5] This list of applications has been mailed to all participants in this proceeding and is not published herein. For information concerning these applications, call Jerold Feldman or Betty Woolford at (202) 632-7125.

11. Accordingly, it is ordered, pursuant to section 309(i) of the Communications Act of 1934, as amended, (47 U.S.C. 309(i)) and § 1.972 of the Commission's Rules (CFR 1.972), that a lottery will be conducted to select from among the 306 competing applications for new trunked SMR systems in the Los Angeles-San Francisco areas. A Lottery Notice will be issued shortly providing the date and procedures for this random selection process.

Memorandum Opinion and Order

In the matter of SMRS applications in the San Diego, California area, FCC 84-601.

Adopted: December 4, 1984.
Released: December 26, 1984.

By the Commission.

1. On August 10, 1984, the Commission in accordance with procedures set forth in the Second Report and Order in General Docket No 81-768, 48 FR 27182 (June 13, 1983), initiated by Public Notice (No. 5770) an expedited paper hearing proceeding to select licensees from among competing applicants for Specialized Mobile Radio (SMR) 800 MHz channels in the San Diego, California area. Only those applicants which met the filing requirements as set forth in our *Second Report and Order* in PR Docket No. 79-191, 90 FCC 2d 1281 (1982), are being considered.

2. The Public Notice, citing the comparative criteria established in our *Memorandum Opinion and Order* terminating PR Docket No. 79-191, 48 FR 51917 (November 15, 1983), noted that applicants will be awarded comparative points based upon the following:

(1) Applications proposing to expand an existing loaded trunked system will be awarded two comparative points.

(2) Applications proposing to operate a new trunked system will be awarded one comparative point.

(3) Applications proposing to operate a conventional system will be awarded no comparative points.

3. In accordance with Rule 1.221, applicants were required to file a Notice of Appearance and Statement and serve copies on all other applicants within 30 days. The purpose of the information furnished in the statement was to determine each applicant's comparative points. The Public Notice, sent to each applicant by certified mail, stated that an untimely filing of appearance of failure to respond could result in dismissal for failure to prosecute pursuant to Rules 1.221(c) and 1.961(b). Applicants were given 20 days to submit rebuttals or informal complaints concerning the qualifications or statements of competing applicants.

4. The Public Notice indicated that we would review the information submitted and make a final decision concerning the proper comparative points for each applicant. After the paper proceedings, those applications with the highest number of comparative points would be granted. If sufficient channels were not available to grant all applications with the same number of comparative points, grants in that group would be made in accordance with the Commission's lottery procedures.

5. The Public Notice initiating this proceeding listed 137 applications for SMR stations in the San Diego, California area.[1] Of these applications the following were dismissed for the reasons shown:

Applicant	File No.	Dismissed	Reason for dismissal
Frederick B. Kahle	506756 506821	10-16-84	At his request.
Bob L. Millum	507394	9-4-84	Do.
Paul Jones Enterprises, Inc.	507738	11-01-84	Do.

6. The following applications are also dismissed by this order, for the reasons shown:

Applicant	File No.	Reason for dismissal
M. G. Communication	507503 507504	Correspondence returned.
Communications Sites, Inc	506599	Failure to respond.
MRA, Inc	506683	Do.
Repeater Associates, Inc	506685	Do.
Peter E. Weber	507867 507868	Do.

7. Based on the Notices of Appearance and Statements and clarifying information furnished by several applicants pursuant to our request we have determined that, of the remaining applications, 125 applications are each assigned one comparative point for proposing to operate a new trunked system [2] and one application is assigned no comparative points for proposing to operate a conventional system.

8. When spectrum remains available but is insufficient to grant applications which are without substantial, material differences [3] and which are assigned one comparative point, those applications will be designated for random selection. Since sufficient channels are not available to grant all 125 applications proposing to operate a new trunked system, grants of these applications, which are listed in the attachment, will be made in accordance with the Commission's lottery procedures.[4] [5]

9. Since there are insufficient channels to grant all applications for new trunked systems, the remaining application (File no. 506868) for a conventional system filed by Pflueger Enterprises is dismissed by this order.

10. Accordingly, it is ordered, pursuant to section 309(i)) of the Communications Act of 1934, as amended (47 U.S.C. 309(i) and section 1972 of the Commission's Rules (47 CFR 1972), that a lottery will be conducted to select from among the 125 competing applications for new trunked SMR systems in the San Diego, California area. A Lottery Notice will be issued shortly providing the date and procedures for this random selection process.

Memorandum Opinion and Order

In the matter of SMRS applications in the Buffalo, New York Area, FCC 84-602.

Adopted: December 4, 1984.
Released: December 26, 1984.

By the Commission.

1. On August 10, 1984, the Commission, in accordance with procedures set forth in the Second Report and Order in General Docket No 81-768, 48 FR 27182 (June 13, 1983), initiated by Public Notice (No. 5770) an expedited paper hearing proceeding to select licensees from among competing applicants for Specialized Mobile Radio (SMR) 800 MHz channels in the Buffalo, New York area. Only those applications which met the filing requirements as set

[1] The August 10 Public Notice listed 136 applications. On August 31, 1984, the Commission released a Public Notice (No. 6339) adding an applicant who was omitted from the initial list of participants.

[2] The applications of Marcel J. Boulais d/b/a Confidential Communications Co. (File no. 507730) and Richard A. Boulais d/b/a Private Line Communications Co. (File no. 507745) for systems at the same transmitter site in Escondido, California are included in this group. However, if their rankings in the lottery qualify them to receive a grant, these applications will be designated for hearing since both of the Boulais' also filed applications for 800 MHz systems at the same transmitter sites in Orange, California, Los Angeles, San Francisco, Phoenix, Denver, Atlanta, Boston, New York and Chicago in an apparent abuse of the Commission's applications process and in an apparent attempt to avoid the requirements of Rule 90.627(b).

[3] 48 FR 27182, 27195 (June 13, 1983).

[4] There are no substantial, material differences among these applicants since they all propose to operate a new 5 channel trunked SMR system and there are no financial qualifications required for applying for an SMR license. We deem there to be no substantial, material difference among applications which are assigned the same number of comparative points. See *Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945, 960 (1975).

[5] This list of applications has been mailed to all participants in this proceeding and is not published herein. For information concerning these applications, call Jerold Feldman or Betty Woolford at (202) 632-7125.

forth in our *Second Report and Order* in PR Docket No. 79–191, 90 FCC 2d 1281 (1982), are being considered.

2. The Public Notice, citing the comparative criteria established in our *Memorandum Opinion and Order* terminating PR Docket No. 79–191, 48 FR 51917 (November 15, 1983), noted that applicants will be awarded comparative points based upon the following:

(1) Applications proposing to expand an existing loaded trunked system will be awarded two comparative points.

(2) Applications proposing to operate a new trunked system will be awarded one comparative point.

(3) Applications proposing to operate a conventional system will be awarded no comparative points.

3. In accordance with Rule 1.221, applicants were required to file a Notice of Appearance and Statement and serve copies on all other applicants within 30 days. The purpose of the information furnished in the statement was to determine each applicant's comparative points. The Public Notice, sent to each applicant by certified mail, stated that an untimely filing of appearance and failure to respond could result in dismissal for failure to prosecute pursuant to Rules 1.221(c) and 1.961(b). Applicants were given 20 days to submit rebuttals or informal complaints concerning the qualifications or statements of competing applicants.

4. The Public Notice indicated that we would review the information submitted and make a final decision concerning the proper comparative points for each applicant. After the paper proceedings, those applications with the highest number of comparative points would be granted. If sufficient channels were not available to grant all applications with the same number of comparative points, grants in that group would be made in accordance with the Commission's lottery procedures.

5. The Public Notice initiating this proceeding listed 20 applications for SMR stations in the Buffalo, New York area. Based on the Notices of Appearance and Statements furnished by the applicants we have determined that the 20 applications listed in the attachment are for new trunked systems and are therefore each assigned one comparative point.

6. When available spectrum is insufficient to grant applications which are without substantial, material differences [1] and which are assigned one comparative point, those applications will be designated for random selection. Since sufficient channels are not available to grant all 20 applications proposing to operate a new trunked system, grants of these applications, which are listed in the attachment, will be made in accordance with the Commission's lottery procedures.[2] [3]

7. Accordingly, it is ordered, pursuant to section 309(i) of the Communications Act of 1934, as amended (47 CFR § 1.972), that a lottery will be conducted to select from among the 20 competing applications for new trunked SMR systems in the Buffalo, New York area. A Lottery Notice will be issued shortly providing the date and procedures for this random selection process.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–33802 Filed 12–31–84; 8:45 am]

BILLING CODE 6712–01–M

[1] 48 FR 27182, 27195 (June 13, 1983).

[2] There are no substantial, material differences among these applicants since they all propose to operate a new 5 channel trunked SMR system and there are no financial qualifications required for applying for an SMR license. We deem there to be no substantial, material differences among applications which are assigned the same number of comparative points. See *Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945, 960 (1975).

[3] The list of applications has been mailed to all participants in this proceeding and is not published herein. For information concerning these applications call Jerold Feldman or Betty Woolford at (202) 632–7125.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Proposed New System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed new system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Federal Emergency Management Agency (FEMA) gives notice of the proposed new system of records, FEMA/NPP–4, Scientific and Technical Information System.

A new system report has been filed with the Office of Management and Budget, the Speaker of the House of Representatives, and the President of the Senate.

DATE: The proposed new system of records shall be effective as proposed without further notice 30 days from the date of this publication, unless comments are received on or before that date which would result in a contrary determination. Any interested parties may submit written comments regarding this proposal.

ADDRESS: Address comments to the Federal Emergency Management Agency, Attn: Docket Clerk, Office of General Counsel, Room 840, 500 C Street, SW., Washington, D.C. 20472. Comments received will be available for public inspection at the above address during normal working hours.

FOR FURTHER INFORMATION CONTACT: Linda Keener, FOIA/Privacy Specialist, at (202) 287–0313.

SUPPLEMENTARY INFORMATION: FEMA lacks an integrated technical information resource system to provide full support to the Integrated Emergency Management System (IEMS). Just as IEMS is a nationwide network integrated by FEMA to cope with all types of disasters, the Scientific and Technical Information System (STIS) is planned to be a network of informational resources integrated to deliver timely and valid technical information. Its intended focus is to make available the contributions of scientific research and technology. The development of the STIS, based on the guidelines of the Research Program Assessment, is being designed to proceed in phases to meet the constraints of budget allocations, manpower, and coordination requirements.

FEMA currently is not always able to respond effectively to a large number of emergency management inquiries and requirements. This situation can worsen as IEMS becomes fully operational and as FEMA extends the interest in emergency management to other constituencies and groups. While there are many resources with expertise in emergency management nationwide, their talents are not available or organized in a systematic way to benefit FEMA's needs. The purpose of this proposed system of records is to provide FEMA with an organized and systematic automated resources file of emergency management expertise.

FEMA plans to develop the STIS under contract which would inventory and assess existing resource directories that could be integrated for use with the talent file. For example, the contractor would identify individuals who would be willing to contribute emergency management expertise from such sources as the Directory of Federal Technology Resources, Agency and Laboratory Contacts Involved with Transfer of Federal Technology, Arson Resource Directory, Fire Defense and Emergency Response Planning, and

Federal Laboratory Directory. The contractor will identify potential users in emergency management fields and a cost-effective means of disseminating the information in both a reproducible copy of the file and online automated availability. This will involve identification and establishment of online linkages with other appropriate Federal sector information and data bases. Because of the nature of the information being developed for responding to emergency situations, it will be available to anyone who has a need for identification of a particular individual possessing the emergency management expertise required for a given emergency situation. Only those individuals who have been previously contacted and agreed to contribute their expertise will be included in the automated system and the directory.

Dated: November 26, 1984.

James L. Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/NPP-4

SYSTEM NAME:

Scientific and Technical Information System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The system will be developed by a contractor and mintained either at the contractor's site or by the National Preparedness Programs Directorate, FEMA Headquarters, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have agreed to contribute their expertise in emergency management areas and who have agreed to be included in the automated system and directory.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, title and area of expertise, and business telephone number and address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 201 and 401 of the Federal Civil Defense Act of 1950, as amended; 50 U.S.C. App. 2251 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; and Executive Order 12148 of July 20, 1979, 3 CFR, 1979 Comp., p. 412.

PURPOSE:

For the purpose of identifying individuals and organizations who have expertise, knowledge, and experience in emergency management to help respond to a wide range of emergencies, such as providing consultation and guidance to Federal, State, and local officials in emergency situations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from both the computerized system and the directory will be provided to anyone who has a need for identification of particular individuals or organizations which possess the emergency management expertise required for responding to a given emergency situation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in computer processible storage media and a directory.

RETRIEVABILITY:

By name, subject expertise, or geographic location.

RETENTION AND DISPOSAL:

The computerized system and directory will be updated periodically to keep the information current. As the information becomes obsolete or an individual desires to be dropped from the program, such information will be deleted from the computerized system and not included in the next edition of the directory.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, National Preparedness Programs Directorate, Federal Emergency Management Agency, Washington, D.C.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager identified above.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register** and the Code of Federal Regulations. Record source categories: Directly from the individuals and organizations identified by the contractor who would be willing to contribute emergency management expertise to Federal, State, and local officials for responding to a wide range of emergency situations.

[FR Doc. 84-33910 Filed 12-31-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commisison regarding a pending agreement.

Agreement No.: 224-003957-005.

Title: Oakland Terminal Agreement.

Parties:

The Port of Oakland (Port)

Neptune Orient Lines, Ltd. (NOL)

Synopsis: Agreement No. 224-003957-005 modifies the basic agreement between the parties whereby the Port preferentially assigned certain marine terminal facilities in the Port's Outer Harbor Terminal to NOL. The agreement amends one of the termination provisions of the basic agreement extending the time in which NOL may exercise its right to terminate the agreement to February 28, 1985, and reduces the minimum period for such termination from 20 months to 18 months.

Agreement No.: 224-010709.

Title: San Francisco Terminal Agreement.

Parties:

City and County of San Francisco (City) San Francisco Port Commission (Port)

Compagnie Generale Maritime (CGM)

Synpopsis: Agreement No. 224–010709 provides for the utilization by CGM of the Port of San Francisco as its published, regularly scheduled Northern California port of call. The wharfage and dockage charges for the Port usage will be at 60% of the current tariff rate. The term of the agreement is for five years.

By Order of the Federal Maritime Commission.

Dated: December 27, 1984.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 84–33985 Filed 12–31–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Banca Commerciale Italiana and Litco Bancorporation of New York, Inc.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)), to engage *de novo* through national bank subsidiaries in the making of commercial loans, and other activities specified below. The proposed subsidiaries will not engage in deposit-taking transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until preliminary charters for the proposed national bank subsidiaries have been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than January 19, 1985.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Banca Commerciale Italiana*, Milan, Italy, and *Litco Bancorporation of New York, Inc.*, Garden City, New York; to engage through the following national bank subsidiaries in commercial, consumer and mortgage lending and the acceptance of time and savings deposits and money market deposit accounts: Litco Bank of Connecticut, N.A., Stamford, Connecticut; Litco Bank of Washington, D.C., N.A., Washington, D.C.; Litco Bank of Florida, N.A., Tampa, Florida; and Litco Bank of New Jersey, N.A., Morristown, New Jersey.

Board of Governors of the Federal Reserve System, December 28, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–33919 Filed 12–31–84; 8:45 am]

BILLING CODE 6210–01–M

Barclays USA Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 17, 1985.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays USA Inc.*, New York, New York; to acquire 6.667 percent of the capital stock of the New York Switch Corporation through Barclays U.S. Holdings Inc. ("BUSH") an existing subsidiary of Barclays, and to engage *de novo* through The New York Switch Corporation, Fort Lee, New Jersey, in the operation of a regional electronic funds transfer network for interchanging financial transactions initiated at automated teller machines ("AIMs") between and among participating despository institutions.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Provident Bancorp, Inc.*, Cincinnati, Ohio; to engage *de novo* through its subsidiary, Provident Securities & Investment Company, Cincinnati, Ohio, in underwriting, dealing in, brokering, and purchasing and selling obligations of the various states and their political subdivisions, and such other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335 including money market instruments such as certificates of deposit and bankers acceptances. In addition, PSI will provide general economic information and portfolio investment advice to customers. These activities will be conducted in the States of Ohio, Kentucky, and Indiana.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104

Marietta Street, NW., Atlanta, Georgia 30303:

1. *Atlantic Bancorporation*, Jacksonville; *Barnett Banks of Florida, Inc.*, Jacksonville; *First Florida Bank, Inc.*, Tampa; *Florida National Banks of Florida, Inc.*, Jacksonville; *Landmark Banking Corporation of Florida*, Fort Lauderdale; *Southeast Banking Corporation*, Miami; and *Sun Banks, Inc.*, Orlando, all located in Florida; to expand *de novo* data processing, transmission and related services to financial institutions located outside of Florida and to other EFT networks through Florida Interchange Group, Inc., Orlando, Florida.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bank of Montreal*, Montreal, Quebec, Canada, and its subsidiaries *First Canadian Financial U.S Holdings, Inc.*, New York, New York and *Harris Bankcorp, Inc.*, Chicago, Illinois; to engage *de novo* through their wholly owned subsidiary, Harriscorp Finance, Inc., Chicago, Illinois in the activities of making commercial real estate loans, taking as security therefor first or second mortgages.

Board of Governors of the Federal Reserve System, December 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33920 Filed 12-31-84; 8:45 am]

BILLING CODE 6210-01-M

Cook Investment, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in effeciency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 21, 1985.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cook Investment, Inc.*, Beatrice, Nebraska; to acquire 100 percent of the voting shares of Pickrell, Inc., Pickrell, Nebraska, thereby indirectly acquiring Pickrell State Bank, Pickrell, Nebraska; and to acquire 100 percent of the voting shares of Wymore, Inc., Wymore, Nebraska, thereby indirectly acquiring Wymore State Bank, Wymore, Nebraska. Cook Investment, Inc., has also applied to indirectly acquire 50 percent of Pickrell Insurance Agency, Pickrell, Nebraska, a general partnership through its acquisition of Pickrell, Inc., Pickrell, Nebraska, thereby indirectly engaging in general insurance agency activities in a town with a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, December 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33921 Filed 12-31-84; 8:45 am]

BILLING CODE 6210-01-M

Elders Finance International, Inc.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"). The Edge Corporation would operate as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than January 23, 1985.

A. **Board of Governors of the Federal Reserve System,** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Elders IXL Limited*, Adelaide, Australia: to establish a corporation to be known as Elders Finance International, Inc., New York, New York ("Edge"). Edge would operate as a direct subsidiary of Elders Finance & Investment Company, Limited, Melbourne, Australia ("Elders"), a merchant bank organized under the laws of Australia, that is wholly-owned by Elders Finance, Melbourne, Australia. Elders proposes that Edge would: (1) Trade in gold and silver coin and bullion on a spot, forward and futures basis both for its own account, the account of its foreign affiliates and those customers of Edge defined in § 211.4(e)(1) of Regulation K; (2) trade on foreign exchange futures markets for its own account and for the account of its affiliates; and (3) engage in futures, forward and standby contracts on financial instruments permissible to an Edge corporation under § 211.4(e)(3) of Regulation K. In addition, Elders request, pursuant to § 211.6(d) of Regulation K, that the proceeds of a subordinated capital note to be issued by Edge be considered as capital for purposes of determining capital adequacy. This application may be inspected at the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, December 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33922 Filed 12-31-84; 8:45 am]

BILLING CODE 6210-01-M

RIHT Financial Corp., et al., Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 17, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *RIHT Financial Corporation*, Providence, Rhode Island; to engage *de novo* through its existing subsidiary, HT Investors, Inc., Providence, Rhode Island, in serving as investment adviser to open-end investment companies.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York New York; to engage *de novo* through its subsidiary, BT Commercial Corporation, in making or acquiring loans and other extensions of credit such as would be made by a commercial finance company, including commercial loans secured by a borrower's accounts receivable, inventory, or other assets; purchasing or acquiring accounts receivable and making advances thereon as would be done by a factor; servicing such loans or accounts for others; acquiring and selling participations in such obligations; making or acquiring leases and installment sales contracts of personal property; servicing such leases and installment sales contracts for others; acting as agent, broker or adviser in connection with such transactions; and acquiring and selling participations in the obligations arising from such transactions.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Four Seasons of Wisconsin, Inc.* Manawa, Wisconsin; to engage *de novo* in leasing personal or real property or acting as agent, broker or adviser in the leasing of such property. These activities would be conducted in the County of Waupaca, Wisconsin.

Board of Governors of the Federal Reserve System, December 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33923 Filed 12-31-84; 8:45 am]

BILLING CODE 6210-01-M

Third Illinois Bancorp, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than January 21, 1985.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Third Illinois Bancorp, Inc.*, Manchester, Missouri; to acquire 64.39 percent of the voting shares of Johnston City State Bank, Johnston City, Illinois.

Board of Governors of the Federal Reserve System, December 26, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33924 Filed 12-28-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on Revised System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of revised system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to revise a system of records that will be maintained by GSA. The system of records, Personnel Information Resources System, GSA/PPFM-8, is a revision of Human Resources File, GSA/PPFM-4. The Human Resources File system of records is being divided into two systems, Personnel Information Resources System and Payroll Information Processing System. The collection of information under PPFM-4 needed a more efficient automated program. At first it was decided to redesign the current system. After a thorough study, the redesign project would take 8 years to complete. Instead, in 1982, GSA decided to use a software package designed by the Department of the Air Force for the processing of personnel records. This notice supercedes the related portions of PPFM-4. No additional information or routine uses are created. As no new

information is being collected by GSA, the proposed amendments are not considered as being within the purview of the provisions of 5 U.S.C. 552a(o) which would require submission of an altered report to Congress and the Office of Management and Budget. PPFM–4 will be cancelled when the Payroll Information Processing System is published.

DATES: Any interested party may submit written comments about this revised system. Comments must be received on or before the 30th day following publication of this notice. The routine use will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535–7647.

Background

The purpose of this system is to assemble information in a comprehensive computerized system to support the day to day operating requirements associated with personnel oriented program areas from hiring, paying, and training employees to calculating estimated retirement annuities.

The revised system of records is as follows:

GSA/PPFM–8

SYSTEM NAME:

Personnel Information Resources System (PIRS)

SYSTEM LOCATION:

This system of records is located in the General Services Administration Central Office service and staff offices; commissions, committees, and small agencies serviced by GSA; and other GSA offices at the following addresses:

GS Building, 18th and F Streets, NW., Washington, DC 20405
Crystal Mall Building 4, 1941 Jefferson Davis Highway, Arlington, VA 20406
Archives Building, Eighth and Pennsylvania Avenue, NW., Washington, DC 20408
John W. McCormack Post Office and Courthouse, Boston, MA 02109
Jacob K Javits Federal Building, 26 Federal Plaza, New York, NY 10278
Regional Office Building, Ninth and Market Streets, Philadelphia, PA 19107
Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA 30303
John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, IL 60604
General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131
Federal Records Center Building, 9700 Page Boulevard, St. Louis, MO 76102
Denver Federal Center Complex, Building 41, Denver, CO 80225
General Services Administration, 525 Market Street, San Francisco, CA 95105
GSA Center, Auburn, WA 98002
GSA Regional Office Building, Seventh and D Streets, SW., Washington, DC 20407

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are current and former employees of the General Services Administration and of commissions, committees, and small agencies serviced by GSA including applicants for employment and persons in intern, youth employment, and work study programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files in the system consist of employee development and training records, personnel security records, EEO records, and personnel records. Each file uses data elements of the core system but also has unique data elements of its own. Records include information collected by operating officials as well as personnel, security, safety, civil rights, and finance officials in administering their program areas in matters for or about employees. In addition, the system has data necessary to update the Central Personnel Data File at the Office of Personnel Management and process personnel actions. The system has a large number of records which may include the following categories of records:

a. Employee identification and status data such as name, social security number, date of birth, sex, work schedule, type of appointment, education, veteran's preference, military service, and race/national origin.

b. Employee date data such as service computation date for leave, date probationary period began, and date of performance rating.

c. Position and pay data such as pay plan, occupational series, grade, step, salary, and organization location.

d. Award and suggestion data such as type and amount of award, suggestion number, estimated benefits, amount, and performance rating.

e. Employment data such as merit pool identifier, position description, special employment program, and target occupational series and grade.

f. Personnel security data such as security clearance level and basis with dates.

g. Employee development and training data such as type of training; course title; date training completed; and hours, cost, and evaluation of training.

h. Equal employment opportunity data on EEO complaints processing such as a complaint, complaint basis, decision finding, corrective action, EEO counselor's name, date entered collateral duty, and number of individauls counseled.

i. Tables of data for editing, reporting, and processing personnel and pay actions. These include Nature of Action Codes, Civil Service Authority Codes, Standard Remarks, Signature Table, Position Title Table, Organization Table, and Salary Table.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Part III, is the authority for the system. Specific authority for use of Social Security numbers is in Executive Order 9397, 26 CFR 31.6011(b)2, and 26 CFR 31.6109–1. Authority for the personnel security clearance and statistical records is in Executive Order 10450, April 27, 1953, as amended; Executive Order 12356, April 2, 1982; and 31 U.S.C. 1535. Authority for the EEO records is in the Equal Employment Opportunity Act of 1972, 42 U.S.C. 2000e–16; the Civil Service Reform Act of 1978; 5 U.S.C. 7201; and 29 CFR 1613, Subpart C.

PURPOSE:

To assemble in one system information on a comprehensive computerized information system supporting the day to day operating requirements associated with personnel oriented program areas from hiring, paying, and training employees to calculating estimated retirement annuities. The system, which is patently designed to meet personnel information and statistics needs to all types and sizes of Government organizations, achieves many benefits from eaah data element introduced into the system. To accomplish the above, the system does provide a number of outputs. For the Office of Personnel, the system produces automated personnel actions as well as organization rosters, retention registers, retirement calculations, reports of the Federal civilian employment, employee master record printouts, length of service and awards list, and listing grade increases. It also produces reports that aid in monitoring personnel actions to decide if policies and/or practices have an impact on minorities, women, or disabled persons; analyzing the status of minorities, women, and disabled persons in GSA's work force; and establishing affirmative action goals and timetables. For the Office of Internal Security, the system produces reports for issuing security and ADP clearances.

For the Office of Civil Rights, the system produces reports that aid in evaluating civil rights programs; processing and monitoring discrimination complaints; and reporting to the Congress, Equal Employment Opportunity Commission, Office of Management and Budget, and Office of Personnel Management, among others. For the Office of Training, the system produces reports to include status of training; organizational, nationwide, and monthly summaries of training; organizational, regional, and quarterly summaries of training hours by type; training by source; and cumulative employee training records. For the Office of Federal Protection and Safety the system produces a report used in compiling statistics on personal injuries within GSA. The system also provides data to various agency staff and administrative offices to use for management purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose information to the Office of Personnel Management for the Central Personnel Data File (CPDF).

b. To disclose information to other sources outside GSA to monitor and document grievance proceedings, EEO complaints, and adverse actions; to other agencies and persons for employees seeking employment elsewhere; to conduct counseling sessions; and to prepare biographical employees sketches for release to other agencies and persons.

c. To disclose the executive health maintenance list to management officials and Health Unit Officials. This listing is of all employees over 40 years old who are qualified for the Executive Health Maintenance Program.

d. To disclose information in the personnel security file to the Office of Internal Security. The routine uses listed in the GSA system of records GSA/HRO–37, Security Files, also apply to this information.

e. To disclose information in the employee development and training file to the Office of Training. In addition this file is used to measure actual progress against planned training, prepare analyses of training data, and aid in evaluations for merit promotions.

f. To disclose information in the equal employment opportunity file to the Office of Civil Rights. The routine uses listed in the Equal Employment Opportunity Commission system of records EEOC/GOVT–1 also apply to this information. In addition this file is used to provide support to the Director of Civil Rights, Central Office EEO staff members, Central Office division directors, and Regional EEO officers in performing their duties.

g. To disclose information in the personnel file to the Office of Personnel.

h. To disclose information to the Office of Federal Protection and Safety for compiling statistical information on personal injuries of GSA employees.

i. To disclose information to various agency staff and administrative offices who may restructure the data for their management purposes.

j. To disclose information to a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the General Services Administration becomes aware of a violation or potential violation of civil or criminal law or regulation.

k. To disclose information to a Federal, State, or local agency keeping civil, criminal, enforcement, or other information to get information relevant in making a decision on hiring or retaining an employee; issuing a security clearance; letting a contract; or issuing a license, grant, or other benefit.

l. To disclose information to a requesting Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant, or other benefit by the requesting agency where the information is relevant and necessary for a decision.

m. To disclose information to an appeal, grievance, or formal complaints examiner; equal employment opportunity investigator; arbitrator; exclusive representative; or other official engaged in investigating, or settling a grievance, complaint, or appeal filed by an employee.

n. To disclose information to a Member of Congress or a congressional staff member in response to an inquiry from that congressional office made in behalf of a constituent.

o. To disclose information to the Office of Management and Budget in connection with reviewing private relief legislation at any state of the coordination and clearance process.

p. To disclose information to an expert, a consultant, or contractor of GSA in performing a Federal duty.

q. To disclose information to a physician to conduct a medical examination or evaluation of a GSA employee.

r. To disclose information to the Office of Personnel Management under the agency's responsibility for evaluating Federal personnel management. When official personnel records in the custody of GSA are covered in the system of records published by the Office of Personnel Management as Government-wide records, they are considered part of that system. Other official personnel records covered by notices published by GSA are separate systems of records and may be transferred to the Office of Personnel Management under official personnel programs and activities as a routine use.

s. To disclose information according to the routine uses listed in the Office of Pdrsonnel Management system of records OPM/GOVT–1.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, card files, and cabinets; microfilm records in reels and cabinets; mocrofiche in cabinets; magnetic tapes and cards in cabinets and storage libraries; and computer records within a computer and attached equipment.

RETRIEVABILITY:

Filed alphabetically at each location by name, and social security number, or both methods for each person.

SAFEGUARDS:

Records stored in lockable containers or secured rooms. Computerized records protected by password system. Information release only to authorized officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Disposal of records is described in the HB, GSA Records Maintenance and Disposition system (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

PIRS Project Director, Employment Policy Division, Office of Personnel, General Services Administration (EPP), Washington, DC 20405.

NOTIFICATION PROCEDURES:

Inquiries by individuals should be addressed to:

a. Director of Personnel, General Services Administration (EP), 18th and F Streets, NW, Washington, DC 20405 for personnel records.

b. Director, Office of Internal Security, General Services Administration (ATOIP), 18th and F Streets, NW, Washington, DC 20405 for personnel security records.

c. Director, Office of Civil Rights, General Services Administration (ETC), 18th and F Streets, NW, Washington, DC 20405 for EEO records.

d. Director, Office of Training, General Services Administration (ETD), 18th and F Streets, NW, Washington, DC 20405 for employee development and training records.

e. Director, Fire and Safety Division, General Services Administration (PSA), 18th and F Streets, NW, Washington, DC 20405 for personal injury records.

f. Office which employee worked for management records.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the officials listed in the notification procedures portion of this notice. For written requests, individuals should provide full name, social security number, address, telephone number, and approximate dates and place of employment. For identification requirements, refer to the agency regulations outlined in 41 CFR 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents and appealing initial decisions are issued in 41 CFR 105–64, of the Federal Register.

RECORD SOURCE CATEGORIES:

Individuals themselves, other employees, supervisors, other agencies management officials, non-Federal sources such as private firms, and data from the system of records GSA/HRO–37, OPM/GOVT–1, and EEOC/GOVT–1.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(k), the personnel security files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the act.

Dated: December 19, 1984.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 84–33838 Filed 12–31–84; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84F–0407]

Concentrados Marinos, S.A.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a petition has been filed on behalf of Concentrados Marinos, S.A., proposing that the food additive regulations be amended to provide for the safe use of fish protein concentrate as a food supplement.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A3865) has been filed on behalf of Concentrados Marinos, S.A., P.O. Box Casilla 4441, Lima 100, Peru, proposing that Subpart D of Part 172 (21 CFR Part 172) of the food additive regulations be amended by adding a new section to provide for the use of fish protein concentrate as a food supplement.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 21, 1984.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84–33917 Filed 12–31–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 84D–0340]

Interim Action Level for Ethylene Dibromide in Honey; Availability of Compliance Policy Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of FDA Compliance Policy Guide 7120.23, Attachment M, that has been revised to establish and interim action level for residues of ethylene dibromide (EDB) in honey that is ready to eat; that is, will not undergo further processing before consumption. The interim action level, 30 parts per billion (ppb) EDB, has been recommended by the Environmental Protection Agency (EPA) and is consistent with action levels previously recommended by EPA and established by FDA for EDB residues in other ready-to-eat food products.

EFFECTIVE DATE: The interim action level is effective immediately and will remain in effect until further notice.

ADDRESS: Written comments regarding the interim action level and requests for single copies of the revised FDA Compliance Policy Guide 7120.23, Attachment M, are to be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John M. Taylor, Center for Food Safety and Applied Nutrition (HFF–310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0187.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 3, 1984 (49 FR 13195), FDA announced the availability of Compliance Policy Guide 7120.23, Attachment M (CPG). This CPG established action levels for EDB residues in processed grain products. FDA established these action levels at the recommendation of EPA when that agency suspended uses of EDB as a fumigant on grain and grain milling equipment (see the **Federal Register** of February 22, 1984 (49 FR 6696–6702)).

One of the remaining approved uses of EDB is as a fumigant to control wax moths in beehives and beehive supers. When this use of EDB was approved, it was anticipated that no residues would remain in the honey. Therefore, no tolerance for EDB residue on honey was established. In 1984, however, low levels of EDB have been found in raw and processed honey by several State agencies, the U.S. Department of Agriculture and FDA.

Because of these findings of EDB in honey, FDA conducted a survey to determine the extent and amount of the residues present in ready-to-eat honey, and provided these data to EPA.

Based on the detected presence of EDB residues in honey, EPA has recommended that FDA establish and interim action level of 30 ppb of EDB in honey while EPA considers further action on EDB as a beehive fumigant.

Ordinarily, FDA would not establish an action level for a residue that results from a registered use of a pesticide. In this case, however, FDA is establishing this interim action level at the request of EPA to control exposure to EDB and is continuing to sample honey for EDB residues utilizing the interim 30 ppb action level for enforcement action.

Interested persons may submit written comments, along with supporting data, on FDA Compliance Policy Guide

7120.23, Attachment M, or requests for single copies of the guide to the Dockets Management Branch (address above). 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 Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 24, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33916 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0393]

International Flour Sales Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the International Flour Sales Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of powdered sugar cane in food as a dietary fiber source.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5A3834) has been filed by the International Flour Sales Corp., 41-540 Makakalo St., Waimanalo, HI 96795, proposing that Part 172 (21 CFR Part 172) of the food additive regulations be amended to provide for the safe use of powdered sugar cane, with and without the naturally occurring sugar extracted, as a dietary fiber source in food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 11, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-33912 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0415]

Medtronic, Inc.; Premarket Approval of the Medtronic ITREL™ Spinal Cord Stimulation System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Medtronic, Inc., Minneapolis, MN, for premarket approval, under the Medical Device Amendments of 1976, of the Medtronic ITREL™ Spinal Cord Stimulation System. After reviewing the recommendation of the Neurological Devices Panel (formely the Neurological Device Section of the Respiratory and Nervous System Devices Panel), FDA notified the applicant that FDA approved the application because the applicant had shown the device to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 1, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: A. Doyle Gantt, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7514.

SUPPLEMENTARY INFORMATION: On January 13, 1984, Medtronic, Inc., Minneapolis, MN 55440, submitted to FDA an application for premarket approval of the Medtronic ITREL™ Spinal Cord Stimulation System. The device is a totally implanted spinal cord stimulator system for pain relief. The device is indicated as an aid in the management of chronic, intractable pain of the trunk or limbs. The system includes the following components: The models 7420 and 7421 pulse generators; the Models 7430 and 7431 programmers; the Model 7450 magnet; the Model 7620 screener; and the Models 7490, 7491, and 7492 lead extensions. On February 24, 1984, the then Neurological Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application (On April 24, 1984, the Neurological Device Section of the Respiratory and Nervous System Devices Panel was terminated. Concurrently, FDA established the Neurological Devices Panel (see 49 FR 17446; April 24, 1984).) On November 30, 1984, FDA approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at the Center for Devices and Radiological Health—contact A. Doyle Gantt (HFZ-430), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 1, 1985, file with the Dockets Management Branch (address above) two copies of each petition and

supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 24, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33914 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0414]

Siemens Medical Systems, Inc.; Premarket Approval of the Magnetom

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Siemens Medical Systems, Inc., Iselin, NJ, for premarket approval, under the Medical Device Amendments of 1976, of the MAGNETOM. After reviewing the recommendation of the Radiologic Devices Panel, FDA notified the applicant that FDA approved the application because the applicant had shown the device to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 1, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert A. Phillips, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7514.

SUPPLEMENTARY INFORMATION: On December 29, 1983, Siemens Medical Systems, Inc., Iselin, NJ 08830, submitted to FDA an application for premarket approval of the MAGNETOM. The device is a nuclear magnetic resonance (NMR) imaging device. The device is indicated for use as a diagnostic imaging device that produces transverse, saggital, and cross-sectional images that display the internal structure of the head or body. The images produced by the MAGNETOM reflect the spatial distribution of protons (hydrogen nuclei) exhibiting magnetic resonance. The NMR properties that determine image appearance are proton density, spin lattice relaxation time (T_1), spin-spin relaxation time (T_2), and flow. When interpreted by a trained physician, these images provide information that can be useful in the determination of a diagnosis. On May 17, 1984, the Radiologic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On November 16, 1984, FDA approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at the Center for Devices and Radiological Health—contact Robert A. Phillips (HFZ-430), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 1, 1985, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 24, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33918 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

Technical Electronic Product Radiation Standards Committee; Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the rechartering of the Technical Electronic Product Radiation Standards Committee by the Commissioner of Food and Drugs. This notice is issued under the Federal Advisory Committee Act.

DATE: Authority for this committee will expire on December 24, 1986, unless the Commissioner formally determines that rechartering is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Dated: December 21, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-33915 Filed 12-31-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14895-A; 4310-JA5-00262-GP5-025]

Alaska Native Claims Selection; Nima Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Nima Corporation, for approximately 8.58 acres. The lands involved are within T. 4 N., R. 97 W., Seward Meridian, Alaska.

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in the Tundra Drums. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until February 1, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-33938 Filed 12-31-84; 8:45 am]

BILLING CODE 4310-JA-M

[ES-32707]

Necedah National Wildlife Refuge; Wisconsin; Proposed Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service proposes to amend E.O. 8065, March 14, 1939, by withdrawal of an additional 4,107 acres to be included as part of the Necedah National Wildlife Refuge.

ADDRESS: Inquiries concerning the land should be sent to: Director, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304.

FOR FURTHER INFORMATION CONTACT: Merrill G. Anderson, Bureau of Land Management Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 274-0083.

On June 28, 1983, the Fish and Wildlife Service, Department of the Interior, submitted a formal application, ES-32707, to withdraw approximately 4,107 acres in Juneau County, Wisconsin to be included as part of the existing Necedah National Wildlife Refuge and subject to the provisions of the National Wildlife Refuge System Administration Act (16 U.S.C. 668 dd). The 4,107 acres are described as:

Fourth Principal Meridian, Wisconsin

T. 18 N., R. 2 E.,
Sec. 1 and Sec. 12;
T. 18 N., R. 3 E.,
Secs. 6, 7, 8, 9 and 15;
(Those parts lying south and west of Grand Dike Road.)
T. 18 N., R. 3 E.,
Sec. 16 and Sec. 17.

The State of Wisconsin and the Fish and Wildlife Service signed a Cooperative and License Agreement, June 29, 1940, authorizing the State to manage the above described lands as part of the Necedah Wildlife Management Area. This agreement will terminate upon the publication in the **Federal Register** of the Public Land Order placing these lands in the Necedah National Wildlife Refuge.

The above described lands have been and continue to be segregated from the general public land laws by E.O. 8763 dated May 28, 1941, which reserved these lands as a refuge and breeding ground for native birds and other wildlife in the State of Wisconsin and designated the area as the Necedah Wildlife Management Area. This proposed withdrawal, if approved, would not affect the aforementioned segregation from the general public land laws. That segregation would continue in full force and effect.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2754, notice of file written comments with the undersigned officer of the Bureau of Land Management is hereby given. If a public hearing is to be held, notice will be published in the **Federal Register** giving time and place of such hearing. Written comments on the proposed withdrawal application may be filed on or before March 31, 1985. This application will be processed in accordance with the regulation set forth in 43 CFR Part 2300.

G. Curtis Jones, Jr.,

State Director.

[FR Doc. 84-33987 Filed 12-31-84; 8:45 am]

BILLING CODE 4310-84-M

[M60157]

Montana; Modification of Notice of Realty Action; Exchange

AGENCY: Bureau of Land Management, Butte District Offices, Interior.

ACTION: Modification of Notice of Realty Action M60157, Exchange of Public and Private Lands in Beaverhead and Madison Counties.

SUMMARY: This Notice modifies the original Notice of Realty Action for M60157 published on December 11, 1984 (49 FR 48226). The legal descriptions of parcels of public lands noted in the original Notice are modified as follows: Parcel 48—T. 10 S., R. 11 W., Sec. 2, Lot 3, SE¼NW¼, NE¼SW¼, 124.01 acres; Parcel 64—T. 11 S., R. 10 W., Sec. 35, SE¼SW¼, SW¼SE¼, T. 12 S., R. 10 W., Sec. 2, Lots 2 and 3, 161.74 acres; Parcel 125, T. 12 S., R. 9 W., Sec. 28, NE¼NE¼, 40 acres.

Dated: December 20, 1984.

Jack A. McIntosh,

District Manager, Butte District.

BILLING CODE 4310-DN-M

Arizona; Filing of Plats of Survey

December 20, 1984.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat representing a dependent resurvey of a portion of the subdivisional lines and certain boundaries of minimal surveys in sections 18 and 19, T. 14 N., R. 2 E., Gila and Salt River Meridian, Arizona, was accepted November 19, 1984, and was officially filed November 21, 1984.

This survey was executed at the request of Region Three, U.S. Forest Service.

A plat representing a dependent resurvey of a portion of the subdivisional lines and a survey of the subdivisions in section 28, T. 1 S., R. 2 W., and Salt River Meridian, Arizona, was accepted October 12, 1984, and was officially filed October 12, 1984.

This survey was executed at the request of the Manager, Indian Project Office, Flagstaff, Arizona.

A supplemental plat, showing amended lottings in sections 29 and 32, T. 12 N., R. 1 W., Gila and Salt River Meridian, Arizona, was accepted October 18, 1984, and was officially filed October 22, 1984.

This plat was prepared at the request of Region Three, U.S. Forest Service.

A supplemental plat showing new areas is sections 8 and 17, T. 14 N., R. 2 E., Gila, and Salt River Meridian, Arizona, was accepted November 20, 1984, and was officially filed November 21, 1984.

This plat was prepared as a result of a dependent resurvey in sections 18 and 19, T. 14 N., R. 2 E., that was requested by Region Three, U.S. Forest Service.

A supplemental plat, showing amended lottings in the NE¼ of the NW¼ of section 8, T. 20 N., R. 17 W., Gila and Salt River Meridian, Arizona, was accepted October 18, 1984, and was officially filed October 22, 1984.

This plat was prepared at the request of Phoenix District Office, Bureau of Land Management.

A supplemental plat, showing a subdivision of original lots 4, 5, 12, 13 and 14, section 13, T. 1 S., R 2 W., Gila and Salt River Meridian, Arizona, was accepted October 10., 1984, and was officially filed October 12, 1984.

This plat was prepared at the request of the Manager, Indian Project Office, Flagstaff, Arizonza.

A supplemental plat, showing new lottings within the San Carlos Indian Reservation, in section 16, T. 5 S., R. 16 E., Gila and Salt River Meridian, Arizona, was accepted November 21, 1984, and was officially filed November 26, 1984.

This plat was prepared at the request of the Arizona State Land Department and the Branch of Lands and Minerals Operations, Bureau of Land Management.

A supplemental plat, showing new lottings within the San Carlos Indian Reservation, in section 36, T. 5 S., R. 21 E., Gila and Salt River Meridian, Arizona, was accepted November 21, 1984, and was officially filed November 26, 1984.

This plat was prepared at the request of the Arizona State Land Department and the Branch of Lands and Minerals Operations, Bureau of Land Management.

A supplemental plat, showing new lottings within the San Carlos Indian Reservation, in sections 16, 27 and 36, T. 6 S., R. 22 E., Gila and Salt River Meridian, Arizona, was accepted November 21, 1984, and was officially filed November 26, 1984.

This plat was prepared at the request of the Arizona State Land Department and the Branch of Lands and Minerals Operations, Bureau of Land Management.

A supplemental plat, showing amended in sections 25 and 27, T. 21 S., R. 17 E., Gila and Salt River Meridian, Arizona, was accepted October 18, 1984, and was officially filed October 22, 1984.

This plat was prepared at the request of Region Three, U.S. Forest Service.

A supplemental plat, showing new lottings in section 30, T. 21 S., R. 18 E., Gila and Salt River Meridian, Arizona, was accepted October 18, 1984, and was officially filed October 22, 1984.

This plat was prepared at the request of Region Three, U.S. Forest Service.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquires relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-23984 Filed 12-31-84; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Endangered Species; Receipt of Application for Permit; New York Zoological Society, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-687858

Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to import one captive-bred male snow leopard (*Panthera uncia*) from the Moscow Zoo, U.S.S.R. for enhancement of propagation.

PRT-687585

Applicant: John Sutterlin, Auburn, WA.

The applicant requests a permit to purchase in interstate commerce three pair of masked bobwhite (*Colinus virginianus ridgwayi*) from Tom S. Carter, Mertron, TX, for the purpose of enhancement of propagation.

PRT-687221

Applicant: Ford Brothers Circus, Cut and Shoot, TX.

The applicant requests a permit to purchase in interstate commerce one female Asian elephant (*Elephas maximus*), from Joe Hedrick, Nickerson, Kansas, for enhancement of propagation through breeding and conservation exhibition.

PRT-688012

Applicant: Jeanette Wyneken, University of Illinois, Urbana, IL.

The applicant requests a permit to take (harass) naturally stranded/salvaged leatherback sea turtles (*Dermochelys coriacea*) from along the coast of Florida, Georgia and North Carolina and hatchlings in captivity to obtain morphological and locomotor data for scientific research.

PRT-688070

Applicant: International Crane Foundation, Baraboo, WI.

The applicant requests a permit to import one pair of captive-born hooded cranes (*Grus monacha*) from the Moscow Zoo, USSR, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: December 26, 1984.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-34003 Filed 12-31-84; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 Section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, January 18, 1985.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The meeting will convene at Park Headquarters at 1:30 P.M. to discuss:

(1) Renewal of Commercial Certificate of Suspension of Condemnation.

(2) Off-Road Vehicle Use.

The meeting is open to the public. It is expected that 30 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentation to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663, telephone (617) 349-3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the Office of

the Superintendent, Cape Cod National Seashore, So. Wellfleet, Massachusetts.

Dated: December 17, 1984.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 84-33952 Filed 12-31-84; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area, Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 10:30 a.m. (PST) on Saturday, February 2, 1985, at the West Marin School, Point Reyes Station, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco, and San Mateo Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Any Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Mr. Charles Gould
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Mr. John Mitchell
Ms. Gimmy Park Li
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

Major agenda items for the meeting are bicycle use in Point Reyes Wilderness Area—discussion of the response received from the Director of the National Park Service regarding the application of the Wilderness Act to the Point Reyes Wilderness Area; and the Range Conservation Plan for ranches in Point Reyes National Seashore and northern areas of GGNRA—management proposals will be presented by the Soil Conservation Service and the local Resource Conservation District.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information of the meeting or who wish to submit written statements may contact Shirwin Smith, Staff Assistant of Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123.

Minutes for the meeting will be available for public inspection by March 1, 1985, in the office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123.

Dated: December 20, 1984.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 84-33951 Filed 12-31-84; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 22, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 17, 1985.

Beth Grosvenor,

Acting Chief of Registration, National Register.

ARIZONA

Pima County

Tucson, *Wright, Harold Bell, Estate,* 850 N. Barbara Worth

COLORADO

Denver County

Denver, *Highland Park (Scottish Village) Historic District,* Bounded by Zuni St., Dunkeld Pl., Clay St., and 32nd Ave.

Las Animas County

Cokedale, *Cokedale Historic District,* Roughly bounded by Church, Maple, Pine, Elm and Spruce Sts.

Park County

Bailey vicinity, *Glenisle,* Off U.S. Hwy 285

Pitkin County

Aspen, *Hyman-Brand Building,* 203 S. Galena St.

Yuma County

Eckley, *Boggs Lumber and Hardware Building,* 125 N. Main St.

DELAWARE

New Castle County

Wilmington, *Crosby and Hill Building (Market Street MRA),* 605 N. Market St.
Wilmington, *Delmarva Power and Light Building (Market Street MRA),* 600 N. Market St.
Wilmington, *Govatos'/McVey Building (Market Street MRA),* 800 N. Market St.
Wilmington, *Gray, Charles, Printing Shop (Market Street MRA),* 11 E. 8th St.
Wilmington, *Keil, Max, Building (Market Street MRA),* 712 N. Market St.
Wilmington, *Keil, Max, Building (Market Street MRA),* 700 N. Market St.
Wilmington, *Kresge Building (Market Street MRA),* 613 M. Market St.
Wilmington, *Old Town Commercial Historic District (Market Street MRA),* Roughly bounded by 5th, N. King, N. 9th, and Shipley Sts.
Wilmington, *Reynold's Candy Company Building (Market Street MRA),* 703 N. Market St.
Wilmington, *Schagrin, Charles, Building (Market Street MRA),* 608 N. Market St.
Wilmington, *Townsend, Henry, Building (Market Street MRA),* 709 N. Market St.
Wilmington, *Wilmington Savings Fund Society (Market Street MRA),* 838 N. Market St.
Wilmington, *Woolworth, F.W., Company Building (Market Street MRA),* 839 N. Market St.

FLORIDA

Sarasota County

Sarasota, *Sarasota Woman's Club (Sarasota MRA),* 1241 N. Palm Ave.

INDIANA

Grant County

Fairmounty, *Patterson, J.W., House and Office (Boundary Increase),* 203 and 209 E. Washington St.

Hamilton County

Sheridan, *Davenport-Bradfield House,* 106 E. Second St.

LOUISIANA

Allen Parish

Elizabeth, *Elizabeth Hospital Building,* Mimosa Dr.

Orleans Parish

New Orleans, *Whitney National Bank (Poydras Branch),* Poydras and Camp Sts.

Tangipahoa Parish

Hammond, *McGhee Hall/Southeastern Louisiana State University,* Southeastern Louisiana University

MARYLAND

St. Mary's County

Mattapany-Sewall Archeological Site

MISSISSIPPI

Oktibbeha County

Starkville, *Hotel Chester,* 217—223 E. Main St.

MISSOURI

Barry County

Monett vicinity, *Waldensian Church and Cemetery of Stone Prairie*, Rt. 2

Clay County

Excelsior Springs, *Elms Hotel*, Regent and Elms Blvd.

Jackson County

Kansas City, *Land Bank Building*, 15 W. 10th St.

Kansas City, *Palace Clothing Company Building*, 1126—1128 Grand Ave.

Marion County

Hannibal, *Broadway District (Hannibal Central Business District MRA)*, Roughly bounded by S. Main, Broadway, and S. 3rd Sts.

Hannibal, *Buildings at 207–209 S. Main St. (Hannibal Central Business District MRA)*, 207–209 S. Main St.

Hannibal, *Davidson Building (Hannibal Central Business District MRA)*, 106 S. Main St.

Hannibal, *Digel Block (Hannibal Central Business District MRA)*, 218–222 S. Main St.

Hannibal, *Elliott's, Robert, Wholesale Grocery (Hannibal Central Business District MRA)*, 116–120 S. 3rd St.

Hannibal, *Hafner Grocery Warehouse (Hannibal Central Business District MRA)*, 101 E. Church St.

Hannibal, *Holmes-Dakin Building (Hannibal Central Business District MRA)*, 120–122 S. Main St.

Hannibal, *Mark Twin Hotel (Hannibal Central Business District MRA)*, 200 S. Main St.

Hannibal, *North Main Street Historic District (Hannibal Central Business District MRA)*, Roughly bounded by Bird, N. Main, and Hill Sts.

Hannibal, *Standard Printing District (Hannibal Central Business District MRA)*, Roughly bounded by Center and N. 3rd Sts.

Palmyra, *Dryden-Louthan House*, 402 E. Ross St.

Palmyra, *Sowers, Peter J., House*, 221 Home St.

St. Louis (Independent City)

Advertising Building, 1627–1629 Locust St.

Hickory Street District, Bounded roughly by Lasalle, Missouri, Rutger, and Jefferson Sts., and along Hickory St.

University City Education District, 7400 and 7401 Balson Ave., and 951 N. Hanley Rd.

Webster County

Seymour vicinity, *Love, Col. Thomas C., House (Love Ridge Fruit Farm)*, Off Rt. 1

MONTANA

Beaverhead County

Dillon, *Barrett Hospital*, Chapman and S. Atlantic Sts.

Flathead County

Essex, *Izaak Walton Inn*, Off U.S. 2 adjacent to Railroad in Essex

PENNSYLVANIA

Berks County

Reading, *Liberty Fire Company No. 5*, 501 S. 5th St.

Lycoming County

Williamsport, *Millionaire's Row Historic District*, Roughly bounded by Nichols Pl., Campbell, W. Edwin, Grace, Walnut, Maynard, W. 3rd, Park and Hadley Sts., and Vine and 7th Aves.

[FR Doc. 84–33953 Filed 12–31–84; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

[INT–FES 84–48]

Hoover Powerplant Modification Project, Arizona-Nevada; Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental impact statement (FEIS) for the Hoover Powerplant Modification Project, Arizona-Nevada.

This statement describes the environmental impacts resulting from the proposed construction and operation of additional generating units at the Hoover Powerplant. The powerplant generating capacity would be increased by 500 megawatts for a total plant capacity of about 2,300 megawatts. The project will not produce any additional electrical energy annually, but would permit greater energy production during hours of peak daily demand.

This FEIS is in an abbreviated form consistent with the intent of the Council on Environmental Quality Regulations. Certain sections of the draft environmental statement have not been reproduced in the FEIS. A copy of both the draft and final environmental statement, therefore, must be used together for complete coverage.

Copies of the FEIS (and the draft) are available for inspection at the following locations:

Assistant to the Commissioner—Ecology, Room 7622, Department of the Interior, Bureau of Reclamation, C Street between 18th and 19th Streets, NW., Washington, D.C. 20240. Telephone (202) 343–4991

Division of Management Support, General Services, Library Section, Code 950, E&R Center, Denver Federal Center, Denver, Colorado 80225. Telephone (303) 234–3007

Office of the Regional Director, Bureau of Reclamation, P.O. Box 427, Nevada Highway and Park Street, Boulder City, Nevada 89005. Telephone (702) 293–8411

Arizona Projects Office, Bureau of Reclamation, 23636 N. Seventh Street, Phoenix, Arizona 85024. Telephone (602) 870–2100

Libraries:

Boulder City Public Library, 813 Arizona Avenue, Boulder City, Nevada 89005. Telephone (702) 293–1281

Clark County Library, 1401 East Flamingo Road, Las Vegas, Nevada 89109. Telephone (702) 733–7810

Bullhead City Public Library, Bullhead City, Arizona 86430.

Los Angeles County Public Library, 3200 West Temple Street, Los Angeles, California 90053

Single copies of the final environmental statement may be obtained on request to the Commissioner of the Bureau of Reclamation or the Regional Director at the addresses listed above. Please refer to the statement number above when requesting a copy.

Dated: December 27, 1984.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 84–33991 Filed 12–31–84; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–225 through 234 (Preliminary) and 731–TA–213 through 235 (Preliminary)]

Certain Carbon Steel Products From Austria, Czechoslovakia, East Germany, Finland, Hungary, Norway, Poland, Romania, Sweden, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701–TA–225 through 234 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the following carbon steel products upon which bounties or grants are alleged to be paid:

Carbon steel plates, whether or not in coils, provided for in item 607.66 of the Tariff Schedules of the United States (TSUS), from—
Sweden [investigation No. 701–TA–225 (Preliminary)], and
Venezuela [investigation No. 701–TA–226 (Preliminary)]; and
Hot-rolled carbon steel sheets, provided for in TSUS items 607.67 and 607.83, from—
Austria [investigation No. 701–TA–227 (Preliminary)],
Sweden [investigation No. 701–TA–228 (Preliminary)], and
Venezuela [investigation No. 701–TA–229 (Preliminary)]; and
Cold-rolled carbon steel plates and sheets, provided for in TSUS item 607.83, from—
Austria [investigation No. 701–TA–230 (Preliminary)],
Sweden [investigation No. 701–TA–231 (Preliminary)], and
Venezuela [investigation No. 701–TA–232 (Preliminary)]; and
Galvanized carbon steel sheets, provided for in TSUS items 608.07 and 608.13, from—
Austria [investigation No. 701–TA–233 (Preliminary)], and
Venezuela [investigation No. 701–TA–234 (Preliminary)].

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–213 through 235 (Preliminary) under section 722(a) of the Tariff Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the following carbon steel products, which are alleged to be sold at less than fair value:

Carbon steel plates, whether or not in coils, provided for in TSUS item 607.66, from—
Czechoslovakia [investigation No. 731–TA–213 (Preliminary)],
East Germany [investigation No. 731–TA–214 (Preliminary)],
Hungary [investigation No. 731–TA–215 (Preliminary)],
Poland [investigation No. 731–TA–216 (Preliminary)], and
Venezuela [investigation No. 731–TA–217 (Preliminary)]; and
Carbon steel plates in coils, provided for in TSUS item 607.66, from Finland [investigation No. 731–TA–218 (Preliminary)]; and
Hot-rolled carbon steel sheets, provided for in TSUS items 607.67 and 607.83, from—
Austria [investigation No. 731–TA–219 (Preliminary)],
Finland [investigation No. 731–TA–220 (Preliminary)],
Hungary [investigation No. 731–TA–221 (Preliminary)],
Romania [investigation No. 731–TA–222 (Preliminary)], and
Venezuela [investigation No. 731–TA–223 (Preliminary)]; and
Cold-rolled carbon steel plates and sheets, provided for in TSUS item 607.83, from—
Austria [investigation No. 731–TA–224 (Preliminary)],
Czechoslovakia [investigation No. 731–TA–225 (Preliminary)],
East Germany [investigation No. 731–TA–226 (Preliminary)],
Finland [investigation No. 731–TA–227 (Preliminary)],
Romania [investigation No. 731–TA–228 (Preliminary)], and
Venezuela [investigation No. 731–TA–229 (Preliminary)]; and
Galvanized carbon steel sheets, provided for in TSUS items 608.07 and 608.13, from—
Austria [investigation No. 731–TA–230 (Preliminary)],
East Germany [investigation No. 731–TA–231 (Preliminary)],
Romania [investigation No. 731–TA–232 (Preliminary)], and
Venezuela [investigation No. 731–TA–233 (Preliminary)]; and
Carbon steel angles, shapes, and sections having a maximum cross-sectional dimension of 3 inches or more, provided for in TSUS item 609.80, from—
Norway [investigation No. 731–TA–234 (Preliminary)], and
Poland [investigation No. 731–TA–235 (Preliminary)].

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: December 19, 1984.

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202–523–0286) or Abigail Eltzroth (202–523–0289), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on December 19, 1984, by the United States Steel Corp., Pittsburg, PA, and Chaparral Steel Co., Midlothian, TX and on December 20, 1984, by Bethlehem Steel Corp., Bethlehem, PA.

Participation in these investigations

Persons wishing to participate in these investigations as parties must file an entry of apearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR § 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on January 9, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Lawrence Rausch (202–523–0286) or Abigail Eltzroth (202–523–0289), not later than January 4., 1985, to arrange for their appearance. Parties in support of the imposition of countervailing duty and/or intidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before January 11, 1985, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretry to the Commission in

accordance with seaction 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: These investigations are being conducted under authority of the Tariff Acat of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: December 26, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-33950 Filed 12-31-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30589]

The Everett Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 10901 the lease and operation by The Everett Railroad Company of 6.8 miles of railroad track in Blair County, PA.

DATES: This exemption is effective on December 28, 1984. Petitions to reopen must be filed by January 21, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30589 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Alan W. Maples, P.O. Box 5802, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call toll free (800) 424-5403, or 289-4357 (DC Metropolian area).

Decided: December 21, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 84-33932 Filed 12-31-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-239X]

S.R. Investors, Ltd., Doing Business as Sierra Railroad Co.; Abandonment in Tuolumne County, CA; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 1-mile line of railroad between milepost 49.0 and milepost 50.0 in Tuolumne County, CA.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective February 1, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by February 11, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by February 21, 1985, with Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Scott L. Glickson, 36th Floor, 444 North Michigan Avenue, Chicago, IL 60611.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: December 26, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-33931 Filed 12-31-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers, United States City Average

Pursuant to the requirements of Pub. L. 95-602, I hereby certify that the Consumer Price Index for All Urban Consumers rose by 4.2 percent between October 1983 and October 1984 from a level of 302.6 (1967=100) in October 1983 to a level of 315.3 (1967=100) in October 1984.

Signed at Washington, D.C., on the 21st day of December 1984.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 84-34002 Filed 12-31-84; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-15,343]

Wheatland Tube Co., Wheatland, PA; Revised Determination on Reconsideration

In the case listed below, the Department has issued, pursuant to 29 CFR 90.18(d), an Affirmative Determination Regarding Application for Reconsideration. Following reconsideration, the Department has revised its original determination.

TA-W-15,343 Wheatland Tube Company, Wheatland, Pennsylvania (December 12, 1984.)

Signed at Washington, D.C. this 20th day of December 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-34001 Filed 12-31-84; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application No. D-4990 et al.]

Proposed Exemptions; San Francisco Photographers Supply, Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

San Francisco Photographers Supply, Inc. Defined Benefit Pension Plan and San Francisco Photographers Supply, Inc. Money Purchase Pension Plan (the Plans) Located in San Francisco, CA

[Application Nos. D-4990 and D-4991]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, for a period of five years, to the proposed loans by the Plans of up to 25% of each Plan's assets to San Francisco Photographers Supply, Inc. (the Employer), provided that the terms of the transactions are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted will expire five years after the date of grant with respect to the making of any loan. Subsequent to the expiration of this exemption, the Plans may hold loans originated during this five year period for an additional five years. Should the applicant wish to continue entering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

Summary of Facts and Representations

1. The Plans are a pension plan and a money purchase pension plan with each plan having 4 participants. The Plans' assets are commingled into one trust fund with combined net assets as of December 31, 1983 of approximately $196,600.[1] The Employer is a California corporation involved in the selling of photographic and darkroom supplies.

2. The Employer has recently entered into two loan transactions with the Bank of San Francisco (the Bank). The first loan was in the amount of $50,000 for working capital and was secured by the general assets of the Employer.[2] The second loan was in the amount of $15,000 and was used for the purchase of a computer system.[3]

3. The Plans propose to make a series of loans to the Employer involving up to 25% of each Plan's assets, with each loan being allocated 90% to the pension plan and 10% to the money purchase plan. The Employer proposes to use the loan proceeds to repay the computer loan and for other corporate expansion.

4. The proposed loans will be repaid on a monthly basis with a pro rata portion of the principal amount of the loans plus interest on the total unpaid balance accrued to date being repaid to the Plans at the end of each month. The loan agreement would provide that the Employer could borrow up to an aggregate of 25% of each Plan's assets. The loans will occur over a period of 5 years and each loan would have a maturity date which will not exceed 5 years beyond the exemption period.

The interest rate for such loans will adjusted quarterly by the independent fiduciary (see representation 7) appointed by the Plans and will be 2% above the prime rate charged by the Bank with a guaranteed minimum rate of 12%.

5. The loans will be secured by the accounts receivable of the Employer (the Collateral). The applicant represents that the Employer's accounts receivable as of December 31, 1983 was approximately $115,200. The Employer's turnaround time for its accounts receivable is represented to be approximately 1 month and the Employer's bad debts amount to about 1% of accounts receivable. The Plans will have a perfected first security interest in the Collateral through the

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[1] The pension plan had net assets of $178,800 and the money purchase plan $17,800 as of December 31, 1983.

[2] Interest rate for this loan was prime + 2% with a floor of 10%

[3] Interest rate for this loan was prime + 2% with a floor of 12%.

execution and filing by the Employer of security agreements on behalf of the Plans. The Employer will warrant to own throughout the term of the loans all Collateral free from any adverse claims, security interest or encumbrances.

6. The Plans will use loan documents which are similar to those currently being used by the Bank and the Employer to evidence the loans with the Employer. The loan documents will indicate that the loans are secured by the accounts receivable of the Employer in an amount not less than 175% of the outstanding value of the loans. The principal balance of the loans will be reduced in amount if the accounts receivable ever falls below an amount equal to 175% of the outstanding principal balance of the loans so that the accounts receivable used to secure the loans will always be not less than 175% of the outstanding principal balance of the loans.

The Employer will have the accounts receivable used for such Collateral independently valued no less frequently than once a year to determine the value of the Collateral. The Employer will bear all and any expense to have such valuation made.

7. Mr. Robert G. Allen (Mr. Allen), a partner in the law firm of Knox, Ricksen, Snook, Anthony and Robbins of Oakland, California, has agreed to serve as an independent fiduciary for the proposed loans.[4] Mr. Allen represents that as an attorney he is aware of his duties, responsibilities and potential liabilities in serving as an independent fiduciary.

Mr. Allen represents that after examining the terms of the proposed loans and the history of the Employer and the Plans, he has determined that such loans would be appropriate and suitable for the Plans. Mr. Allen represents that he will make the same determination immediately prior to the consummation of each loan transaction taking into account the facts and circumstances at the time of such proposed loan transaction. In arriving at this conclusion he has reviewed the proposed loans with respect to: (a) The Plans' overall investment portfolio, (b) the cash flow needs of the Plans, (c) the necessity of the sale of any of the Plan's assets, (d) the diversification of the Plan's assets, both before and after such loan and (e) the terms of the loan as such terms conform with the Plans' investment policy. Mr. Allen represents that the proposed interest rate of 2% above the prime rate charged by the Bank with a guaranteed minimum of 12% is appropriate given the type of loan, the terms of the loan, the amount of the loan, the duration of the loan and the collateral used to secure the loan.

Mr. Allen has agreed to accept the responsibility to enforce the terms of the loan agreement between the Employer and the Plans, including making demand for timely payment, bringing suit or other appropriate process against the Employer in the event of default, and keeping accurate records and reporting annually to the Plans' trustee on the performance of the loans. Mr. Allen will take whatever steps are necessary during the year to ensure that the value of the Collateral remains equal to at least 175% of the outstanding balance of the loans during the duration of the loans.

8. In summary the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 48(a) of the Act because:

(a) The loans will be approved and monitored by an independent fiduciary;

(b) The loans will be secured by Collateral which at all times will be at least equal to 175% of the outstanding loan balances;

(c) The exemption will be for a 5 year period with a repayment date not to exceed 10 years from the date of grant of the exemption; and

(d) The Plans' independent fiduciary has determined that the transactions are appropriate and suitable for the Plans, in the best interests of the Plans' participants and beneficiaries, and protective of their rights.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Thomas B. Carmany, M.D., P.A. Retirement Plan (the Plan) Located in Gallup, NM

[Application No. D-5055]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase of a parcel of undeveloped real property (the Property) located in McKinley County, New Mexico, by the Plan from Dr. Thomas B. Carmany for $39,423, provided such amount is not greater than the fair market value of the Property on the date of the acquisition.[5]

Summary of Facts and Representations

1. The Plan is a defined benefit retirement plan with one participant, Dr. Carmany. As of October 31, 1984, the Plan had approximately $393,474 in total assets. Dr. Carmany, who is the sole shareholder of the Employer, is also the trustee of the Plan. The applicant represents that in the event any other eligible employee is subsequently retained by the Employer, a separate identical plan will be created for such employee, so that Dr. Carmany will be the only participant affected by the subject transaction.

2. On August 25, 1981, Dr. Carmany acquired the Property from Fred and Rose Silva (the Silvas), unrelated parties, for $39,423. The Property, which is an undeveloped parcel of land in McKinley County, New Mexico, contains approximately 77.3 acres.

3. Dr. Carmany now wishes to sell the Property to the Plan. As trustee for the Plan, Dr. Carmany wants to acquire the Property because he believes the Property will appreciate greatly and be an excellent investment for the Plan. The Plan already owns an adjacent parcel of property, and in the opinion of Cay Sanchez, an unrelated licensed real estate agent in Gallup, New Mexico, the value of the Property will be increased immediately by its inclusion as a part of a larger tract. The Plan's interest in the Property will be recorded with Clerk of the County Court of McKinley County, New Mexico. The Property, together with the adjacent parcel, will represent approximately 23.2% of the Plan's assets after the consummation of the transaction.

4. Dr. Carmany has offered to sell the Property to the Plan for his cost basis of $39,423. Mr. Charles High of Kauzlaric-High Realtors, Inc., an independent appraiser in Gallup, New Mexico, has appraised the Property as having a fair market value of approximately $46,380 as of September 27, 1984. The Plan will pay Dr. Carmany $25,883 in cash, and will assume a mortgage secured by the Property in the remaining principal amount of approximately $13,540 as of October 15, 1984 to the Silvas. The amount of cash and mortgage assumption will be adjusted at closing

[4] The applicant represents that Mr. Allen's firm receives fees from the Employer, but the total fees received represent less than 1% of its total billings.

[5] Since Dr. Carmany is the sole shareholder of Thomas B. Carmany, M.D., P.A. (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

to reflect payments made in the interim between October 15, 1984 and closing.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because: (1) The Property will represent approximately 11.6% of the Plan's assets; (2) the Plan will be paying less for the Property than the fair market value as determined by an independent appraiser; and (3) Dr. Carmany is the only participant in the Plan to be affected by this transaction, and as Plan trustee he has determined that it is appropriate for the Plan and in the Plan's best interest.

Notice to Interested Persons: Because Dr. Carmany is the sole stockholder of the Employer and the sole participant in the Plan, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days after the publication of this notice in the **Federal Register.**

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Carolina Surgical Clinic of Charlotte, P.A. Pension Plan (the Plan) Located in Charlotte, N.C.

[Application No. D-5384]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective July 1, 1984, to: (1) The lease of the unimproved fee interest in a parcel of real property (the Property) by the Plan to P-H-J Co. (P-H-J), a party in interest with respect to the Plan; (2) the proposed purchase by the Plan from P-H-J of an improvement on the Property; (3) the lease (the New Lease) of the entire fee interest of the Property by the Plan to Carolina Surgical Clinic of Charlotte, P.A. (the Employer), the sponsor of the Plan; and (4) transactions to be effected in accordance with the provisions of the New Lease, such as the exercise of the "put" option by the Plan, provided that the transactions have been and will be effected upon terms and conditions not less favorable to the Plan than those obtainable from third parties.

Effective Date: If granted, this exemption will be effective from July 1, 1984, with respect to the ground lease and will be prospective from the date of a grant of an individual exemption with respect to the purchase of the improvement and the execution of the New Lease.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with 13 participants as of January 31, 1984. As of August 15, 1984, the Plan had total assets of $2,120,304. Branch Banking and Trust Company (BB&T), located in Charlotte, North Carolina, currently serves as the trustee for the Plan and has investment discretion with respect to Plan assets. BB&T became successor trustee to North Carolina National Bank in June, 1981, and was known at that time as City National Bank.

2. The Employer is a medical clinic specializing in surgery. Messers. James P. Hamilton, Harriman Jett, and Duncan Morton, Jr. currently serve as the officers and directors of the Employer. P-H-J is a North Carolina general partnership owned by Mr. C. Lowry Pressley, an employee of the Employer, and Messrs. Hamilton and Jett.

3. On April 11, 1974, Mr. Pressley and his wife, and Mr. Hamilton and his wife (the Sellers), entered into a contract to sell (the Sales Contract) the Property to the Plan for the lesser of $150,000 or the purchase price paid for the Property by the Sellers in April, 1973 plus certain expenses. The Property is located at 2104 Randolph Road, Charlotte, North Carolina, and has 30,528 square feet of land. The Plan purchased the Property, then unimproved, subject to a ground lease entered into on the date of sale between the Sellers and P-H-J. The closing of the sale occurred on August 23, 1974. On that date the Sellers' rights under the ground lease were assigned to the Plan. The Plan's purchase of the land was subject to a deed of trust dated April 12, 1974, entered into by P-H-J in connection with a construction loan agreement of that date securing two promissory notes (the Notes) in the amount of $100,000 each. The Notes were secured by an assignment of rents from P-H-J dated April 12, 1974, authorizing the noteholders to collect rents due the Plan under the ground lease in the event of default. The Sales Contract provided that P-H-J had the right to purchase from the Plan all of its right, title, and/or interest in and to the Property for its fair market value, which will be exclusive of any and all improvements located thereon, in the event the interest of P-H-J as lessee under the ground lease terminates for any reason.

4. The ground lease was for an initial period of five years commencing April 11, 1974, with three successive options to renew for five years each. The ground lease was amended on November 19, 1981 to provide for periodic increases in rental every year after April 11, 1983. Because there was a binding written contract, i.e. the Sales Contract, executed prior to July 1, 1974, the applicants represent that the fact the Plan acquired title to the Property on August 23, 1974, does not vitiate the fact that the transactions (the ground lease and securing of P-H-J's notes with the Plan's ground lessor interest in the Property) are subject to relief under section 414(c) of the Act.[6]

5. Pursuant to the construction loan agreement, P-H-J constructed at its own cost a building comprising 5,432 square feet and related improvements on the Property (the Building). The Building and P-H-J's ground lessee interest have been leased to the Employer by P-H-J. The applicants request an exemption to allow the Plan to purchase the Building from P-H-J for its fair market value and execute the New Lease for the entire fee. The Notes will be paid off by P-H-J prior to the sale. The applicant also seeks an exemption for the continuation of the ground lease of the Property by the Plan to P-H-J beyond June 30, 1984 to the date of acquisition of the Building and the entering into of the New Lease. The applicant represents that under North Carolina law the ownership of the Building on the Property has remained with P-H-J after June 30, 1984.

6. With regard to the continuation of the ground lease, the applicant represents that, BB&T as trustee of the Plan and independent fiduciary of the Plan has determined that the renewal and reconfirmation of the ground lease effective July 1, 1984 has been appropriate, suitable, and in the best interests of the Plan. In this regard, BB&T thoroughly reviewed the ownership and the lease of the land and requested qualified appraisals regarding the land's continued value and determined prior to July 1, 1984, that the continued leasing was appropriate and in the best interests of the Plan.

BB&T has minimal commercial relationships with the Employer and its principals constituting less than .2% of BB&T's commercial business. BB&T has

[6] The Department herein expresses no opinion whether the transactions are covered by the transitional rules of section 414(c) of the Act or have continued to satisfy the conditions of such section.

substantial experience administering employee benefit plans.

7. With respect to the proposed sale and lease of the entire fee, Mr. Zollie A. Collins, an MAI appraiser with Elliot & Collins, Inc. located in Charlotte, North Carolina, determined that as of October 23, 1983, the total value of the Property as improved was $500,000. Mr. Collins determined therein that the land had a value of $260,000 and the Building a value of $240,000. The Plan will purchase the Building at its fair market value for cash. After purchase the entire fee interest will constitute approximately 23% of the Plan's assets.

8. The New Lease provides for an initial term of ten years and an option for the lessee (the Employer) to extend the lease for two additional 5 year terms. The New Lease will provide for monthly payments of rent at $10 per square foot which is $54,320 a year. This rental is the fair market rental value of the improved fee as determined by Mr. Collins. The rental under the New Lease and renewal terms will be adjusted to an amount not less than the existing rental every three years in accordance with appraisals performed by independent MAI certified appraisers selected by the Plan's independent fiduciary. As well, the lease payments will be adjusted upward every year in accordance with certain changes in the Consumer Price Index (CPI). The New Lease also provides that the Plan (as lessor) has the right and option to require the Employer (as Lessee) to purchase the Property for cash upon written notice at a purchase price determined by an MAI appraiser chosen by the Plan's independent fiduciary. The New Lease will be an "absolute net" lease providing that the lessee pay all costs and expenses associated with the Property.

9. BB&T has reviewed all appraisals of the Property and the Building, the New Lease, and the entire Plan portfolio and has determined that the Plan's proposed acquisition of the Building and execution of the New Lease to the Employer is appropriate, suitable, and in the best interests of the Plan. In this regard, BB&T determined that the purchase of the Building would be an excellent investment for the Plan in view of the current asset mixture of the Plan's holdings and given the current and future investment possibilities for the Plan's assets. BB&T represents that the acquisition of the Building will enable the Plan to realize greater appreciation than if the Plan continued to own solely the underlying land. BB&T states that the ownership of the entire fee by the Plan will increase its marketability, and the Employer will be a stable lessee.

10. BB&T states that the New Lease will currently enable the Plan to realize a rental yield of 10.9% which BB&T represents is very favorable in light of current market conditions. BB&T negotiated the terms and conditions of the New Lease on behalf of the Plan and insisted upon the inclusion of various terms such as the New Lease's "put option" as described above. BB&T represents that the terms of the New Lease providing for escalation of the rental annually and performance of appraisals of the fair market rental value every three years by independent appraisers chosen by BB&T add significant positive value to the investment that few other investments available on the market offer. The exercise by the Employer of the option to extend the lease for additional 5 year terms will be subject to the approval of BB&T. BB&T will monitor the terms and conditions of the New Lease and enforce the rights of the Plan under the New Lease.

11. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because (a) BB&T, a qualified, independent fiduciary has determined that the transactions are appropriate and in the best interests of the Plan; (b) the Property, as improved, will represent approximately 23% of the Plan's assets; and (c) BB&T will monitor and enforce the rights of the Plan under the New Lease.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Armin Frank Profit Sharing Plan (the Plan) located in Wilmington, OH

[Application No. D-5445]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale by the Plan on June 15, 1984 of certain real property (the Property) to Armin Frank (Frank), a disqualified person with respect to the Plan, for cash in the amount of $33,500, provided that this amount was the fair market value of the Property on June 1984.[1]

Effective Date: If this exemption is granted, the effective date will be June 15, 1984.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which as of March 31, 1984, had total assets of $118,201 which were subject to liabilities of $87,900, leaving net assets of $30,301. The Plan is maintained by Frank, an attorney, who is sole practitioner. The trustee of the Plan is the National Bank and Trust Company (the Trustee) located in Wilmington, Ohio. Frank has the power to direct investments. As a part of its assets, the Plan owned the Property which consists of one acre of land with certain improvements and is part of a larger tract (consisting of 19 acres and three buildings) which the Plan acquired in 1982 from a third party.

2. Frank is requesting an exemption which will permit the sale of the Property on June 14, 1984 by the Plan to Frank for cash in the amount of $33,500. The Plan paid no sales commissions in the sale. Mr. Jack Merkle (Merkle), an independent real estate appraiser located in Clinton County Ohio, appraised the Property on May 7, 1984. Merkle represents that as of May 7, 1984 the Property had a fair market value of $33,500. The applicant represents that the sale permitted the Plan to diversify its investments and provide the Plan with liquid assets for investment. In addition, the Trustee represents that the transaction was in the best interests of the participants and beneficiaries of the Plan.

3. In summary, the applicant represents that the transaction satisfied the criteria of section 4975(c)(2) of the Code as follows: (1) The Trustee represents that the transaction was in the best interests of the participants and beneficiaries of the Plan; (2) the sales price was established by an independent appraiser; (3) the Plan paid no sales commissions in the sale; (4) The Plan was able to diversify its investments; and (5) Frank and his wife are the only participants in the Plan.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

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[1] Since Frank owns 100% of the beneficial interest of the sponsor of the Plan and with his wife are the only Plan participants there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510 3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

W.L. Gordon Employees Profit Sharing and Thrift Plan (the Plan) Located in Dallas, TX

[Application No. D-5580]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale by the Plan to W.L. Gordon Company, Inc. (the Employer), the Plan sponsor, of two contiguous parcels of improved real property (the Property), provided that the terms and conditions of the sale are not less favorable to the Plan than those terms obtainable in a transaction with an unrelated third party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 118 participants. As of October 17, 1984, the Plan had total assests of $4,310,342. The BancTEXAS Dallas N.A. (the Bank) serves as the trustee of the Plan and has investment responsibility for the investment of Plan assests unless directed by the Plan committee (the Committee). The Committee is comprised of Messrs. Fred L. Arnold and John W. Green, officers and/or shareholders of the Employer. The Employer is a food brokerage company which has a net worth, as of November 30, 1983, of $969,335.

2. The Property consists of two contiguous parcels of improved real property (Tract 1 and Tract 2) located at 4135 Office Parkway, Dallas, Texas. The Property consists of a 9,527 square foot office building situated on 31,070 square feet of land. Tract 1 consists of approximately 13,826 square feet of land and a building, and has been leased by the Plan to the Employer since 1972. The applicant represents that the lease was provided transitional relief by section 414(c)(2) of the Act.[8]

3. Tract 2 consists of 17,244 square feet of land, and an improvement. Tract 2 was contributed to the Plan by the Employer and leased back to the Employer until June 30, 1984, pursuant to an individual exemption granted by the Department in 1979 [Prohibited Transaction Exemption 79-72, (PTE 79-72) 44 Fr 70595, December 7, 1979]. The lease of each Tract expired on June 30, 1984, and the Employer (with the approval of the Bank) has been leasing the Property on a month-to-month basis since that time. The Employer represents that it will pay all applicable excise taxes with regard to the continuation of the leases beyond July 1, 1984, within 60 days from the date of a grant of this individual exemption.

4. The applicant seeks an exemption to allow the cash sale of the Property by the Plan to the Employer at its appraised fair market value. Messrs. Thomas J. Morey and J.G. Faulkner, MAI appraisers located in Dallas, Texas, appraised the Property and determined, as of June 18, 1984, that the Property had a fair market value of $875,000. The Property's value will be updated by an MAI appraiser immediately prior to its sale and will be sold at the higher of $875,000 or its updated appraised value. The applicant represents that the sale of the Property will be in the best interests of the Plan as it will enable the Plan to reinvest the proceeds in more liquid investments. The Plan will not incur any commission expenses or other fees with regard to the sale.

5. In summary, the applicant represents that the transaction satisfies the statutory ciriteria of section 408(a) of the Act because (a) the sale will be a one-time transaction for cash; (b) the Property will be sold at a price not less than its fair market value as of the date of sale; (c) the Plan will not incur any commission expenses or other fees with regard to the sale.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Henry Carlson Company Profit Sharing Plan and Trust (the Plan) Located in Sioux Falls, SD

[Application No. D-5697]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale of 15,000 shares of common stock of Ramkota Inc. (Ramkota) by the Plan to Henry Carlson Company (the Employer), the employer of Plan participants, provided the sale price is not less than the fair market value of such shares on the date of the sale.

Summary of facts and representations

1. As of March 31, 1984, the Plan covered 14 participants and had assets totalling $333,507.66. The Employer is the Plan administrator. First Bank of South Dakota, N.A. (the Trustee), in Sioux Falls, is the trustee of the Plan. It is represented that the Trustee has no relationship to the Employer except that the Employer maintains a payroll account with the Trustee at an average daily balance not to exceed $10,000. The total sums on deposit with the Trustee for all of its customers currently exceed $1,000,000,000. The Employer is a South Dakota corporation presently engaged in the business of building construction and related construction industry, with its principal offices in Sioux Falls, South Dakota. Ramkota is a private corporation engaged in the business of owning and operating the Ramada Inn in Sioux Falls, the Sheraton Inn in Aberdeen, South Dakota, and of operating several additional motels under management contracts. 27 shareholders own the stock of Ramkota, including the Employer, which owns 20% of such stock, and the Plan, which owns 3.74%. Ramkota has no other relationship with the Plan. The Employer performs a substantial amount of construction work for Ramkota.

2. On June 15, 1974, the Employer contributed to the Plan 120 shares of the common stock of Ramkota, valuing them at $300.00 per share ($36,000 total), which amount represented 122.18963% of the book value of Ramkota stock as of September 30, 1973 ($245.52). An additional 30 shares were contributed to the Plan by the Employer during 1974, at the same value of $300.00 per share, representing 125.32375% of the book value of Ramkota stock as of September 30, 1974 ($239.38). The Ramkota stock split, 100 to 1, on September 30, 1975, resulting in an accumulation of 15,000 total shares held by the Plan. As of September 30, 1983, the shares had a book value of $5.30 per share (total value—$79,500.00). It is represented that the Plan has received dividends on the Ramkota stock periodically in the past and that the dividend for the last four years has amounted to five cents per share per quarter.

3. The Ramkota stock is subject to various restrictions on transfer of the shares, thus decreasing its marketability and liquidity. It may be transferred within a controlled unit or must be

[8] The Department expresses no opinion herein as to whether the lease satisfied the requirements of section 414(c)(2) of the Act.

offered to Ramkota for repurchase. If Ramkota does not exercise its option to repurchase, the shares then must be offered to the remaining shareholders. The applicant represents that there is very little trading of the shares of Ramkota stock.

4. On August 18, 1977, the board of directors of Ramkota resolved to give certain employees of Ramkota an option to buy common capital stock in Ramkota under an agreement (the Option Agreement) granting Ramkota the option to repurchase said stock from the employee under certain conditions. Ramkota still uses the Option Agreement, which provides, in pertinent part, that book value shall be used to determine both the sale price to the employee and the repurchase price to Ramkota. Book value per share is defined in the Option Agreement as the excess of the recorded assets of Ramkota over its recorded liabilities dividened by the number of shares of common capital stock then outstanding, with appropriate adjustments to reflect the payment of any dividend subsequent to the date of such computation and before payment of the purchase price. Mr. David R. Sweet, President of Ramkota, represents that the only sales of Ramkota stock that have taken place over the last 7 years have been made at the then-current book value; that all these sales were made to Ramkota employees, in 1976, 1979, and 1982; and that although other sales of Ramkota stock have occured, they have been only between family members of Ramkota shareholders.

5. Four participants of the Plan, whose account balances represent 33% of the Plan's total assets as of March 31, 1984, are over age 62 and nearing retirement age. The Ramkota stock held by the Plan (the Shares) represents almost 25% of its total assets. The applicant represents that since the Ramkota stock is subject to severe restrictions on its transfer and because of the limited marketability of such shares, the continued holding of the Shares by the Plan would affect the Plan's liquidity, investment return, and ability to pay future benefits. Therefore, the Employer wishes to purchase all of the Shares at the following sale prices: 122.18963% of the book value of Ramkota stock for 80% of the Shares (i.e., 12,00 shares) and 125.32375% of the book value of Ramkota stock for the remaining 20% of the Shares (i.e., 3,000 shares). For this purpose, book value will equal the highest of the book values of Ramkota stock on the following three dates: the date of the proposed sale, September 30, 1984, or Spetember 30, 1983. (The Employer believes that a recent major acquisition by Ramkota and the atttendendant accelerated depreciation, investment tax credits, and related accounting procedures would result in a lower value of the Ramkota stock for fiscal year 1984 than for fiscal year 1983.) The difference in premiums reflected in the proposed sale prices reflects the difference in premiums used by the Employer when it contributed the Shares to the Plan in 1974: 22.18963% for the first 120 shares contributed (80% of the Shares) and 25.32375% for the last 30 shares contributed (20% of the Shares).

6. The Employer proposes to pay the entire sale price in full, in cash, on the date of the sale and to pay any commissions or other expenses incurred in effecting the proposed sale. The Plan would not incur any costs or expenses in connection with the proposed sale. According to the applicant, it is expected that the Plan would reinvest the cash proceeds from the proposed sale in more marketable and higher yielding securities. The applicant represents that if the agregate proposed sale price exceeds the fair market value of the Shares on the date of the sale and such excess is deemed an Employer contribution to the Plan, such contribution would not disqualify the Plan under section 415 of the Code.

7. The Trustee has analyzed the lodging industry, the past perforamce of Ramkota stock, and the specific concerns arising from the Plan's retaining shares of this closely held company. It has compared the shares of 12 publicly traded companies in the lodging industry with the shares of Ramkota on the basis of average yield, average growth in book value, and the ratios of price to earnings, average price to book value, and average debt to capital. Based on such analysis and comparison, the Trustee concludes that considering past performance, the illiquidity of this investment, and the opportunity of a buyer who will pay a premium to book value for a closely held company that is highly leveraged, a sales price of book balue plus @0% is a prudent fair market offer for the Shares.

8. In summary, the applicant represents that the proposed transaction satisifes the exemption criteria set forth in section 408(a) of the Act because (a) the sale will be a one-time transaction for cash, (b) the proposed sale prices will exceed the book value of the Shares on the date of the sale, and all sales of Ramkota stock over the past 7 years have been at the then-current book value, (c) the Trustee, an independent fiduciary, believes the proposed sale prices are prudent fair market offers for the Shares, (d) the Plan will not incur any costs or expenses in connection with the proposed sale, and (e) the proposed sale will increase the Plan's liquifity and enhance its investment opportunities while providing sufficient assets to pay benefits to retired participants.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404, and 415.

For further information contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.

William J. Broussard, M.D., Phillip B. Kirk, M.D., M.F. Corcoran, M.D., Andrew Zorbis, M.D., P.A. Pension Trust (the Plan) Located in Palm Bay, FL

[Application No. D–5728]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale by the Plan of certain unimproved real property (the Property) to a general partnership (the Partnership) comprised of Drs. Broussard, Kirk, Corcoran and Zorbis for an amount which is the greater of (1) the fair market value of the Property on the date of sale, or (2) the total of all costs incurred by the Plan in the acquisition and holding of the Property through the date of sale.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan which had eighteen participants and net assets of approximately $1,598,519 as of March 31, 1984. The trustee (the Trustee) of the Plan and the decision-maker with respect to Plan investments is Dr. M.F. Corcoran.

2. The Property was purchased by the Plan from unrelated parties on September 16, 1983 for $291,000. The Plan paid $87,300 in cash and executed a mortgage note (the Note) to the seller of the Property for the remaining $203,700. The Note has an interest rate of 12% per annum and is payable in sixty monthly installments. The application states that the Property was purchased in order for William J. Broussard, M.D., Phillip B. Kirk, M.D., M.F. Corcoran, M.D., Andrew Zorbis, M.D., P.A. (the Employer) to construct a new office building in which it would continue its current practice of medicine.[9] The Employer was unaware that it would be precluded from utilizing the Property for that purpose if it was owned by the Plan.

The application states that the Property has not been used in any way and has not produced any income since its purchase by the Plan. As of October 16, 1984, the total cost to the Plan of acquiring and holding the Property was $315,959.24. This amount includes the purchase price, all closing costs, real estate taxes and interest through October 16, 1984. The 1985 real estate tax with respect to the Property will be prorated between the Plan and the Partnership as of the date of sale if the exemption is granted.

3. The applicant states that the sale of the Property by the Plan to the Partnership is in the best interest of the Plan because the Property is not producing income for the Plan and because development of the Property would place a financial burden on the Plan that is not prudent at the present time. If the sale is consummated, the proceeds of the sale could be invested in more liquid assets which would produce current income for the Plan. The sale will be a one-time transaction consisting of a transfer of the deed to the Property for cash and the assumption of the Note by the Partnership. No fees or other expenses will be paid by the Plan with respect to the sale.

4. The Property was appraised on June 6, 1984 by Mr. Nils H. Hanson, M.A.I., S.R.P.A., president of Hanson Appraisal Service, Inc., Melbourne, Florida. Mr. Hanson, who is independent of all parties to the proposed transaction, determined the fair market value of the Property as of June 6, 1984, to be $306,000. Mr. Hanson stated also that the Property has no special value to the Employer.

5. Southeast Bank, N.A. (the Bank), located in Orlando, Florida, has been appointed to act as an independent fiduciary for the Plan with respect to the proposed sale. The Bank is a fiduciary with investment management and/or custodial responsibility for employee benefit plan accounts ranging in size from $100,000 to $80 million, and acknowledges its duties, responsibilities and liabilities as a fiduciary under the Act with respect to the subject transactions. The Bank represents that it is entirely independent of the Employer, the Partnership and the partners in the Partnership. The Bank states that it has examined the appropriate records of the Plan and has performed such inspections and checks as it considered necessary in order to make an informed determination as to whether or not the proposed transaction is in the best interest of the Plan. Based upon its review, the Bank states that the sale of the Property by the Plan to the Partnership for the greater of (1) its fair market value on the date of sale, or (2) the total of all costs incurred by the Plan in the acquisition and holding of the Property through the date of sale is in the best interest of the Plan because (3) the Property is not currently producing income for the Plan and the Plan lacks sufficient resources to develop the Property so as to make it an income producing investment; (4) the Plan's investment in the Property represents approximately 20% of the Plan's current assets and the sale of the Property will allow the Plan to invest the proceeds in more liquid and income-producing investments; (5) the Plan will pay no fees or commissions with respect to the sale, and (6) the Plan will receive, at a minimum, the full amount it has invested in the Property up to and including the date of sale, if such amount is higher than the fair market value of the Property on the date of sale.

6. In summary, the applicant represents that the proposed sale satisfies the criteria of section 408(a) of the Act because (a) the sale will be a one-time transaction involving cash and the assumption by the Partnership of the Plan's debt obligation with respect to the Property; (b) the Plan will not incur any fees or other expenses with respect to the sale; (c) the sale will increase the liquidity of the Plan's assets and will enable the Plan to dispose of a non-income producing asset; and (d) the sale price of the Property will be the greater of (1) its fair market value on the date of sale or (2) the total costs incurred by the Plan in the acquisition and holding of the Property through the date of sale.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

Profit Sharing Plan and Trust of Claremore Surgeons, Inc. (the Plan) Located in Claremore, OK

[Application No. D-5746]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, (1) for a period of five years, to the proposed loans by the Plan of up to 25% of its net assets (less outstanding loans to Drs. Larry J. Hrdlicka and Larry I. Young) to Claremore Doctor's Park, Inc. (CDPI), a corporation wholly-owned by Drs. Hrdlicka and Young, parties in interest with respect to the Plan; and (2) for the entire terms of such loans, to the joint and several guarantees of the loans by Drs. Hrdlicka and Young, parties in interest with respect to the Plan, provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption: The proposed exemption is temporary and, if granted, will expire five years after the date of such grant. Subsequent to the expiration of this exemption, the Plan may continue to hold loans originated during this five year period for the remaining terms of such loans. Should the applicant wish to continue entering into loan transactions beyond the five-year period, the applicant may submit another application for exemption.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which had eight participants and net assets of approximately $343,955 as of September 21, 1984. Drs. Hrdlicka and Young are the trustees of the Plan and the sole shareholders of Claremore Surgeons, Inc. (the Employer), the sponsor of the Plan.

2. Drs. Hrdlicka and Young each own 50% of the outstanding capital stock of CDPI, a corporation organized to own real property and other investment assets. The application requests relief to permit the Plan to loan up to 25% of its

[9] In this proposed exemption the Department expresses no opinion as to whether the acquisition of the Property by the Plan violated any provision of Part 4 of Title I of the Act.

net assets, less the outstanding balances of any loans to Drs. Hrdlicka and Young,[10] to CDPI, provided that at all times the Plan will have sufficient liquid assets to allow for immediate distribution of benefits to employees other than Drs. Hrdlicka and Young and that the terms and conditions of the loans are no less favorable to the Plan than those available to the Plan in arm's length transactions with unrelated parties. The loans (the Loans) to CDPI will each be for a fifteen year term and will bear interest at the greater of 15% per annum or 1% above the prime rate as quoted on the date of execution of each Loan by the Bank of Commerce and Trust Company (the Bank), Tulsa, Oklahoma. The interest rate will be adjusted semi-annually to remain at the greater of 15% per annum or 1% above the prime rate as quoted on such date by the Bank. The Loans will be repaid in equal monthly installments. The application states that the Employer will pay a one-point origination fee to the Plan at the time of each Loan's execution.

3. The Loans will be secured by a properly recorded first mortgage on certain improved real property (the Property) owned by CDPI. The Property is improved by a one-story medical building consisting of approximately 10,200 leasable square feet. The Employer presently leases 2,000 square feet of the building and the remaining 8,200 square feet of the building is leased to other medical professionals. The Property, which is located at 1218–1220 North Florence Place, Claremore, Oklahoma, was appraised on July 6, 1984 by Mr. Donald W. Wilson, a senior appraiser and principal owner of Wilson & Associates Appraisal Company, Claremore, Oklahoma. Mr. Wilson determined the fair market value of the Property, as of July 1, 1984, to be $665,500. Mr. Wilson is independent of the Employer, CDPI, and Drs. Hrdlicka and Young.

4. The applicants represent that the value of the collateral for the Loans will at all times be at least 150% of the aggregate outstanding Loan balances. If the value of the Property at any time falls below this amount, additional collateral will be added. The Property will be insured against fire, theft and other loss at no expense to the Plan and the Plan will be the named insured under such policy. Additionally, Drs. Hrdlicka and Young, as individuals, agree to jointly and severally guarantee the repayment of the Loans. The application states that each of them, as individuals, had a net worth in excess of $350,000 on August 31, 1984.

5. Drs. Hrdlicka and Young, as the trustees of the Plan, will appoint the Bank as the independent fiduciary for the Plan with respect to the Loans. Mr. Michael L. Nemec, a trust officer with the Bank who is experienced in accounting, real estate investments and finance, will approve, monitor and enforce the Loans. Mr. Nemec represents that he has been advised by legal counsel as to his duties, responsibilities and liabilities as an independent fiduciary under the Act. Mr. Nemec and the Bank have no relationships to the Employer, CDPI and Drs. Hrdlicka and Young. Mr. Nemec represents that in addition to reviewing the terms and conditions of the Loans, he has examined the Plan's investment portfolio, considered the cash flow needs of the Plan, considered the necessity of the sale of any Plan assets and examined the diversification of Plan assets in light of the proposed Loans. Based upon this review, Mr. Nemec has made an initial determination that the Loans are appropriate and suitable for the Plan. Mr. Nemec will be required to make the same determination immediately prior to the consummation of each Loan transaction as a condition of the consummation of such Loan, and will monitor all terms and conditions of such Loans to ensure that the proper rate of interest is being paid, that the Loans meet the conditions of this proposed exemption and that the Loans are secured by collateral valued at an amount equal to at least 150% of the outstanding Loan balances. Mr. Nemec, on behalf of the Bank, will be entitled to any information from the Plan, the Employer, Drs. Hrdlicka and Young, and CDPI as may be reasonably necessary to fulfill the Bank's responsibilities.

6. The Bank will be empowered and directed to enforce the terms of the Loans on behalf of the Plan, including making demand for timely payment, bringing suit or other appropriate process against CDPI, the Employer, and/or Drs. Hrdlicka and Young in the event of default on the Loans or the guarantees, keeping accurate records, reporting at least annually to Drs. Hrdlicka and Young, as the trustees of the Plan, on the performance of the Loans, and ensuring that the value of the collateral securing the Loans remains equal to at least 150% of the aggregate outstanding Loan balances.

7. In summary, the applicants represent that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because: (a) The Loans will be secured by the Property, which has an appraised fair market value of more than 150% of the amount of the proposed Loans; (b) the Loans will at all times be secured by collateral having a value of at least 150% of the outstanding Loan balances; (c) the Bank, acting as an independent fiduciary for the Plan, has reviewed the needs of the Plan and the terms and conditions of the Loans and has determined that the Loans are in the best interest of the Plan's participants and beneficiaries; (d) the Bank must review and approve the making and terms of each Loan in view of the needs of the Plan immediately prior to the consummation of each Loan; and (e) the Bank will monitor and enforce the terms and conditions of the Loans on behalf of the Plan.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other

[10] The applicants state that, as of September 21, 1984, the total outstanding balance of loans made by the Plan to Drs. Hrdlicka and Young was $115,245. The applicants represent that these loans met the criteria of section 408(b)(1) of the Act. The Department expresses no opinion as to the applicability of section 408(b)(1) to these loans.

provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 27th day of December 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-33990 Filed 12-31-84; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts; Request for Comments Pursuant to the 1985 Recipient Grant and Contract Awards; Correction

AGENCY: Legal Services Corporation.

ACTION: Corrections to the November 30, 1984 Notice.

SUMMARY: This notice contains corrections to the listing of several grant applications which appeared at pages 47133-47137 in the **Federal Register** Doc. 84-31497 published on November 30, 1984. Corrected listings are as follows:

Field Programs

Arizona

DNA—People's Legal Services, Inc. in Window Rock—$2,238,500 (correction of amount).

California

Legal Aid Society of San Diego, Inc. in San Diego—$1,548,400 (correction of city location).

Tulare/Kings Counties Legal Services, Inc. in Visalia—$389,798 (correction of amount).

Tennessee

Memphis Area Legal Services, Inc. in Memphis—$1,309,785 (correction of amount).

Legal Services of Middle Tennessee, Inc. in Nashville—$1,252,986 (correction of amount).

Texas

East Texas Legal Services, Inc. in Nacogdoches—$2,184,104 (correction of amount).

Utah

Utah Legal Services in Salt Lake City—$1,240,627 (correction of amount).

Wyoming

Legal Aid Services, Inc. in Casper—$230,905 (correction of amount).

Legal Services for Southeastern Wyoming, Inc. in Cheyenne—$187,640 (correction of amount).

Wind River Legal Services, Inc. in Fort Washakie—$178,465 (correction of amount).

National Support Center

National Center on Women and Family Law in New York, New York—$255,871 (listing previously omitted).

Clearinghouse

National Clearinghouse for Legal Services in Chicago, Illinois—$961,851 (correction of amount).

DATED: November 30, 1984 (unchanged).

FOR FURTHER INFORMATION CONTACT: Gene M. Potack, Director, Office of Field Services, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, D.C. 20005; (202) 272-4080.

Donald P. Bogard,

President, Legal Services Corporation.

December 21, 1984.

[FR Doc. 84-34008 Filed 12-31-84; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Advisory Committee; Meeting

January 7, 1985

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Jefferson Lecture Committee of the National Council on the Humanities will be held on Saturday, February 2, 1985 at 12:00 noon in Room 506 in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC.

The purpose of the meeting is to consider specific individuals who have been nominated for the 1986 Jefferson Lectureship. The meeting will be closed to the public pursuant to subsections (c)(6) and 9(B) of section 552b of Title 5, United States Code because the Committee will consider information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call area code 202-786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-33969 Filed 12-31-84; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Reports, Recommendations, and Responses

Reports Issued

Railroad/Highway Accident Report—Collision of Amtrak Passenger Train No. 301 on Illinois Central Gulf Railroad with Marquette Motor Service Terminals, Inc., Delivery Truck, Wilmington, Illinois, July 28, 1983 (NTSB/RHR-84/02) (NTIS Order No. PB84-917008).

Pipeline Accident Report—Boston Gas Company Natural Gas Overpressure, Explosion and Fires, East Boston, Massachusetts, September 23, 1983 (NTSB/PAR-84/05) (NTIS Order No. PB84-916505).

Aircraft Accident Report—Pilgrim Airlines, Inc., Fokker F27-100, N148PM, John F. Kennedy International Airport, Jamaica, New York, January 13, 1984 (NTSB/AAR-84/12) (NTIS Order No. PB84-910412).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703-487-4650 and to order subscriptions to reports call 703-487-4630.

Recommendations Issued

Marine—*U.S. Coast Guard: December 18: M-84-41:* In conjunction with the American Bureau of Shipping, develop standards for towing systems on all ocean towing vessels, including the means used to lead and restrain the towing hawser over the stern of the vessel and the means for releasing the brake on towing winches remotely from the pilothouse and each steering station. Publish these standards as voluntary

guidelines for uninspected ocean towing vessels and as regulations for inspected ocean towing vessels. *M–84–42:* Review for possible withdrawal all waivers of 46 CFR 42.15–1(b) which have been granted previously on the basis of arrangement and employment of vessels without full consideration of the effects of improper loading. Require that written guidance be provided operators of all new and existing ocean towing vessels where it is found that improper loading can result in the vessel's stability falling below U.S. Coast Guard standards.

American Bureau of Shipping: December 18: M–84–43: In conjunction with the U.S. Coast Guard, develop standards for towing systems on all ocean towing vessels, including the means used to lead and restrain the towing hawser over the stern of the vessel and the means for releasing the brake on towing winches remotely from the pilothouse and each steering station, and publish these standards as classification rules.

Pacific Western Lines: December 18: M–84–44: Alter the towing winches on vessels in your fleet to provide a means for releasing the brake on the towing winch remotely from the pilothouse and each steering station. *M–84–45:* Review the practices used by the crews of vessels in your fleet to draw fuel from various tanks to ensure that these practices provide for optimum stability, and provide written guidance describing the proper practices on board each vessel. *M–84–46:* Where feasible, place sufficient exposure suits for the navigation watch in the pilothouses of vessels in your fleet. *M–84–47:* Require that masters of vessels in your fleet conduct and log emergency drills, including drills in abandoning ship, on a periodic basis sufficient to ensure that all crewmembers on board are trained adequately for emergencies.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number(s) in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 14 cents per page ($1 minimum charge).

Responses Received

Aviation—*Federal Aviation Administration: December 18: A–83–61:* Notice of Proposed Rulemaking, Docket No. 84–CE–33–AD, published in the **Federal Register** on October 31, 1984, proposes to adopt a new Airworthiness Directive applicable to certain Fairchild airplanes regarding modification of the hydraulic lines and oxygen systems.

Highway—*Federal Highway Administration: December 18: H–78–55:* FHWA report "Vehicle Detector Placement for High-Speed Isolated Traffic Actuated Control" (FHWA–RD–77–31) has received widespread distribution. The recently published FHWA "Traffic Control Devices Handbook" includes the basic concepts of vehicle detector placement for high-speed isolated traffic actuated intersection control. The Institute of Transportation Engineer's "Manual of Signal Design" includes the concepts of detector placement. The latter two documents also have received widespread distribution. The yellow change interval and all-red clearance interval concepts addressed in DOT–FH–11–8783 are basic concepts included in the Traffic Control Devices Handbook, most basic traffic engineering textbooks, a traffic signals course previously taught by FHWA, and many university-sponsored signal courses. The potential benefits of a series of regional seminars would not be commensurate with the additional expenditure of public funds and resources.

State of California, Department of General Services: December 14: H–84–8: As to the addition of Federal Motor Vehicle Safety Standard 222, "Schoolbus Passenger Seating and Crash Protection" to our evaluation guidelines, in all cases where they are appropriate, the safety standard is enforced. In other instances, FMVSS 208, Occupant Crash Protection FMVSS 209, Seat Belt Assemblies, and FMVSS 210, Seat Belt Assembly Anchorages are primary requirements. As part of California specifications, we also require completely padded seat backs and barriers in front of all seats not shielded by another seat.

Commonwealth of Pennsylvania, Office of General Counsel: December 18: H–84–77: Department of Transportation will expand enforcement capabilities and techniques regarding drunk drivers. Some police officers have been trained in the use of gaze nystagmus. *H–84–78:* Is encouraging the enforcement system to expand blood extraction and analysis capabilities as an alternative to breath testing. *H–84–79:* Although formal actions regarding DUI holding and release policies have not been undertaken, we could easily address this issue through existing and planned training efforts. *H–84–80:* Law provides that DUI charges cannot be reduced or modified at the preliminary hearing or arraignment. *H–84–81:* Sixteen judicial sessions for training judges will be held in fiscal year 1985. *H–84–82:* Maintains a record of alcohol-related motor vehicle violations for a period of 7 years from the most current violation. *H–84–83 and –84:* Maintenance of records of DUI defendants and evaluation of the defendants is addressed through the Court Reporting Network which provides a uniform client evaluation system in all 67 counties which interface with the DOT traffic record system. The information provided to the judiciary prior to sentencing enables the court to make a well-informed decision regarding adjudication. *H–84–85:* The standardization of Accelerated Rehabilitation Disposition in conjunction with a mandatory minimum license suspension ensures that the diversionary process is not used in lieu of other punitive sanctions. *H–84–86:* DOT has funded a project designed to provide an appropriate and cost-effective DUI offender treatment program for use with both adult and juvenile groups.

Railroad—*Boston & Maine Corporation, Delaware & Hudson Railway Company, and Maine Central Railroad Company: December 10: R–84–20:* Do not have any chrome vanadium rail in their track.

Brotherhood of Locomotive Engineers: December 17: R–83–40, –41, –53, and –54: Has attempted to elicit an industry-wide cooperative labor-management effort to develop an effective, humane and equitable solution to the alcohol problem that has plagued the railroad industry for over a century. Desires to prevent the problem through a means of education, training, awareness, and role modeling. Prevention programs have been successful economically for railroads. Railroads represented at the June 7, 1984 meeting of the National Steering Committee chose the name "Operation: Red Block" as the unifying title and theme of a national campaign to enlist the cooperative support of both labor and management in preventing on-the-job alcohol and drug use.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

December 27, 1984.

[FR Doc. 84–33960 Filed 12–31–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Class 9 Accidents; Cancellation

The ACRS Subcommittee on Class 9 Accidents scheduled for January 8, 1985, Room 1046, 1717 H Street, NW., Washington, DC has been cancelled. This notice was published Friday, December 21, 1984 (49 FR 49738).

Dated: December 27, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-33993 Filed 12-31-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Reschedule

The ACRS Subcommittee on Advanced Reactors scheduled for January 8, 1985 has been rescheduled to February 5, 1985, room 1167, 1717 H Street, NW, Washington, DC.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Friday, December 21, 1984 (49 FR 49738).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST. Persons planing to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 24, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84-33994 Filed 12-31-84; 8:45 am]

BILLING CODE 7590-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting

Notice is hereby given of a meeting of the Prospective Payment Assessment Commission scheduled for Wednesday January 16, 1985. The meeting will convene at 1:00 p.m. in the Charles Room of the L'Enfant Plaza Hotel, L'Enfant Plaza, Southwest, Washington, D.C., and will be open to the public.

Donald A. Young, MD,

Executive Director.

[FR Doc. 84-33801 Filed 12-31-84; 8:45 am]

BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23543 (70-7067)]

Connecticut Light and Power Co. and Western Massachusetts Electric Co.; Proposal to Issue $50 Million of Notes Under Revolving Euro-Note Issuance Agreement; Exception From Competitive Bidding

December 21, 1984.

The Connecticut Light and Power Company ("CL&P") Selden Street, Berlin, Connecticuit, 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, subsidiaries of Northeast Utilities ("NU"), a registered holding company, have made a proposal to this Commission under Sections 6 and 7 of the Public Utility Holding Company Act of 1935 and Rule 50(a)(5) thereunder.

In order to provide alternative methods for short-term borrowing generally, and specifically in connection with the Millstone 3 project, CL&P and WMECO propose to enter into a Revolving Euro-Note Issuance Facility Agreement ("Facility"). Under the Facility, the companies may borrow $50 million by issuing notes, on a discounted net proceeds basis, to a tender panel ("Panel") of foreign banks; or they may issue notes to or receive advances from a syndicate of underwriting banks.

On written notice to a Facility Agent ("Agent") CL&P may issue bearer notes discounted to yield up to $50 million, and WMECO up to $15 million on a first come basis, for a term not to exceed six months, and not redeemable prior to maturity. The Agent will offer the notes to the Panel on a competitive basis. No bid will be accepted if CL&P or WMECO's effective cost exceeds the underwritten price, which is an effective yield of ¼% per annum over the London Interbank Offering Rate ("LIBOR"). To the extent that bids exceed the underwritten price, members of a foreign bank syndicate must purchase the notes at that price in proportion to their participation in the Facility or make direct unsecured advances. All drawings under the facility are on a revolving basis, within the term of the facility, and all payments must be certifiably tax-free to the holder. If either CL&P or WMECO requests a drawing, and also requests that an interim loan (limited to $15 million) be made from the date of its notice of drawing to the date when the notes are to be sold (currently expected to be approximately 7 business days), then one or more of the underwriting banks may agree to make a temporary advance to CL&P or WMECO, as the case may be, for the interim period in advance of the issuance of the notes. If such an advance is made, the effective interest rate for the first such advance would be at the prime rate as defined. The second such advance would bear interest at the prime rate plus a margin of 0.625% per annum, with the margin increasing by .0625% per annum for each subsequent advance. The number of advances is cumulative during the term of the facility. The margin will be capped at 1% over the prime rate.

Either company may cancel the Facility with 30 days notice if the sum of CL&P's notes and unused credit exceeds that of WMECO by a minimum of 3⅓. There will be a proportional underwriting fee of ⅛% per annum on the daily average amount drawn, which is payable quarterly in arrears. Additionally, CL&P and WMECO will pay a ⅛% or 1/16% one-time fee of each underwriting bank's commitment, depending on whether it is more or less than $5 million, respectively.

CL&P and WMECO have requested an exception from the requirements of Rule 50(b) for competitive bidding, as provided in Rule 50(a)(5) regarding the selection of the agent to arrange the facility, and the pricing mechanism for the issuance of notes, because it is inappropriate in the first instance, and the conditions of Rule 50(a)(5) are met in the second.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 22, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 84-33986 Filed 12-31-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01 0319]

Atlantic Energy Capital Corp.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1984)) for transfer of ownership and control of Atlantic Energy Capital Corporation. One Post Office Square, Suite 1760, Boston, Massachusetts 02109, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 611 *et seq.*). The proposed transfer of control of Atlantic Energy Capital Corporation, which was licensed July 27, 1982, is subject to the prior written approval of SBA.

It is proposed that all of the outstanding stock of Atlantic Energy Capital Corporation, be sold by Atlantic Energy Investments to The Orange Nassau Companies, Inc. (TONCI).

The proposed officers, directors and sole shareholder are as follows:

Name and address	Title and/or relationship	Percent of ownership
Peter A. Brooke, 45 Milk St., Boston, MA 02109	Chairman of the Board	0
Joost E. Tjaden, One Post Office Sq., Ste. 1760, Boston, MA 02109	Treasurer, Director	0
Kenneth J. Novack, One Financial Ctr., Boston, MA 02111	Secretary, Director	0
Richard D. Tadler, One Galleria Tower, 13355 Noel Rd., Ste. 635, Dallas, TX 75240	President	0
Nathan Foss, One Post Office Sq., Suite 1760, Boston, MA 02109	Assistant treasurer	0
Mortinus van Doorne, c/o Vado Beheer B.V., Stratumsedijk 56-A, Eindhoven, Netherlands	Director	0
Piet J. van de Ven, 12 Venstraat 5271 TV, St. Michielsgestel, Netherlands	Director	0
Investments Orange, Nassau, Inc., Suite 1760, Boston, MA 02109	Investment advisor	0
The Orange Nassau Companies, Inc., One Post Office Sq., Suite 1760, Boston, MA 02109	Sole shareholder	100

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" St., NW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 20, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-33980 Filed 12-31-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2177]

Territory of Guam; Declaration of Disaster Loan Area

The Territory of Guam constitutes a disaster area because of severe damage caused by Typhoon Bill which occurred on November 12, 1984. Applications for loans for physical damage may be filed until the close of business on February 25, 1985, and for economic injury until the close of business on September 27, 1985, at the address listed below. Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Sacramento, California 95825, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit orgsnizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 217706 for physical damage and for economic injury the number is 624000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 26, 1984.

Robert B. Webber,

Acting Administrator.

[FR Doc. 84-33979 Filed 12-31-84; 8:45 am]

BILLING CODE 9025-01-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains extensions and a revision and lists the following information: (1) The Department of Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained form Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: December 21, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Request for Information Concerning Unreimbursed Family Medical Expenses
3. VA Form 21–8416a
4. On occasion
5. Individuals or households
6. 164,500 responses
7. 41,125 hours
8. Not applicable

1. Department of Veterans Benefits
2. Application for Fee Personnel Designation
3. VA Form 26–6681
4. On occasion
5. Individuals or households
6. 5,600 responses
7. 1,867 hours
8. Not applicable

1. Department of Veterans Benefits
2. Application for Automobile or Other Conveyance and Adaptive Equipment (Under 38 U.S.C. 1901–1904)
3. VA Form 21–4502
4. On occasion
5. Individuals or households
6. 1,500 responses
7. 375 hours
8. Not applicable

Revision

1. Department of Veterans Benefits
2. Veteran's Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant
3. VA Form 26–4555
4. On occasion
5. Individuals or households
6. 1,800 responses
7. 300 hours
8. Not applicable

[FR Doc. 84–33934 Filed 12–31–84; 8:45 am]

BILLING CODE 8320–01–M

State Homes Program; Veterans Nursing Home; Rifle, CO; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a nursing home at Rifle, Colorado. This project is being considered for federal assistance under the grants to State Homes Program and involves the construction of a 100-bed nursing home at Rifle, Colorado. The estimated project cost is approximately $3.4 million. This is a magnitude estimate and is subject to revisions.

A beneficial impact will be achieved through the addition of 100 beds which will provide health care service to Colorado veterans. The project will also provide additional employment and income to the local area surrounding the facility.

Construction related traffic may affect the flow of nearby traffic, and construction noise associated with the development of the new nursing home may cause annoyance to occupants of adjacent residences. Complaints about noise usually give rise to a controversial situation. The impact of dust and fumes that will exist during construction will be of short duration lasting only during that phase of project development.

VA funding of this project is contingent upon agreement by the State of Colorado that the following actions will be completed prior to construction: (a) A radiological survey will be conducted to determine the exact concentration of radioactivity present at the building site and on adjacent land which has been identified as an area of potentially excessive levels of radiation due to drainage or other action; (b) in line with findings of that survey, as well as previously collected data, action will be taken to remove all contaminated soil from both the building site and all adjacent ground determined by a health physicist to contain any significant level of radiation, such that it might have an adverse effect, short-term or long-term, upon potential residents of the proposed nursing home; (c) to alleviate excessive maintenance for the proposed facility in an area where soils and rock are highly erodible, a qualified engineer will design suitable drainage-control structures, construction of which will be simultaneous with that of the nursing home; (d) an additional confirmatory survey will be conducted following removal of contaminated soil and excavation, but before pouring foundations, to verify the absence of buried tailings; (e) the areas of relatively high radioactivity on land southeast and southwest of the building site must be clearly marked to prevent inadvertent spreading of mill tailings through disturbance of the contaminated soil in those areas. VA funding will be revoked if these conditions are not met.

In relation to both construction and operation, the new facility will be built in accordance with applicable Federal, State, and local air quality standards.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality, 50 CFR 1508.27.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for a 30-day public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office:

Mr. William F. Sullivan, Director, Office of Environmental Affairs (10A4A4), Room 601, Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. (202–389–3544). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

By direction of the Administrator.

Dated: December 24, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84–33933 Filed 12–31–84; 8:45 am]

BILLING CODE 8320–01–M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 30, 1985, at 10:00 a.m., the Winston-Salem Regional Office Station Committee on Educational Allowances shall at Room 742, Federal Building, 251 North Main Street, Winston-Salem, North Carolina, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Kernersville Truck Driver Training School, Inc., Kernersville, North Carolina, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

December 24, 1984.

Kenneth E. McDonald,

Director.

[FR Doc. 84–33981 Filed 12–31–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 1
Wednesday, January 2, 1985

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).

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1

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 11:00 a.m., Monday, January 7, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Building proposals regarding the Los Angeles Branch of the Federal Reserve Bank of San Francisco.
2. Study of federal margin regulations (Public Docket No. R-0427). (This item originally announced for a closed meeting on January 2, 1985.)
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Federal Reserve Bank and branch director appointments. (This item was originally announced for a closed meeting on January 2, 1985.)
5. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 28, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33001 Filed 12-28-84; 3:22 p.m.]

BILLING CODE 6210-01-M

2

RAILROAD RETIREMENT BOARD

Public Meeting.

Notice is hereby given that the Railroad Retirement Board will hold a meeting on January 8, 1985, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Proposed Disability Regulations (Part 220)
(2) Amendment of §§ 260.9(c) and 320.39 of the Board's Regulations
(3) Proposed Regulation for Lump-Sum Payments
(4) Proposed Changes in the RUIA Regulations (U&SI Quality Assurance and Program Integrity—Proposal for 14-Day Registration)
(5) Emons Industries Appeal
(6) Relinquishment of Rights in Cases Where a Discharge is Claimed to Have Been Wrongful
(7) Proposed Regulations on RUIA Contributions (Part 345)

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 387-4920.

Dated: December 27, 1984.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 84-33752 Filed 12-28-84; 11:34 am]

BILLING CODE 7905-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 31, 1984, January 7, 14, and 21, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW, Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 31

Thursday, January 3

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of January 7—Tentative

Tuesday, January 8

10:00 a.m.
Continuation of 12/18 briefing and discussion on the hearing process (Public Meeting)
2:00 p.m.
Periodic Briefing on NTOLs (Open/Portion may be Closed)

Thursday, January 10

2:00 p.m.
Discussion/Possible Vote on Proposed Amendments to 10 CFR Part 2 (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of January 14—Tentative

Monday, January 14

9:00 a.m.
Discussion of Adjudication Matters Related to Byron-1 (Closed—Ex. 10)
10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Byron-1 (Public Meeting)
2:00 p.m.
Proposed Legislative Package on Regulatory Reform (Public Meeting)

Tuesday, January 15

10:00 a.m.
Discussion of Adjudiction Matters Related to Catawba-1 (Closed—Ex. 10)
2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Catawba-1 (Public Meeting)

Wednesday, January 16

10:00 a.m.
Discussion of 1985 Policy and Planning Guidance (Public Meeting)

Thursday, January 17

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of January 21—Tentative

Tuesday, January 22

2:00 p.m.
Quarterly Briefing on Safety Goal Evaluation Report (Public Meeting)

Wednesday, January 23

10:00 a.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

George T. Mazuzan,

Office of the Secretary.

[FR Doc. 84-34012 Filed 12-28-84; 4:21 pm]

BILLING CODE 7590-01-M

4

SYNTHETIC FUELS CORPORATION

Meeting of The Comprehensive Strategy Committee of the Board of Directors.

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Comprehensive Strategy Committee of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1). During the meeting, the Committee may consider a resolution to close a portion of the meeting pursuant to section 116(f) of the said Act.

MATTERS TO BE CONSIDERED:

Open Session

1. Discussion of Draft Statement on Objectives and Premises of Corporation Program/Strategy.

TIME AND DATE: 2:00 p.m., January 2, 1985.

PLACE: U.S. Synthetic Fuels Corporation, 2121 K Street, NW., Room 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, at (202) 822-6341.

United States Synthetic Fuels Corporation.

Leonard Rawicz,

Acting General Counsel and Secretary.

December 27, 1984.

[FR Doc. 84-33946 Filed 12-28-84; 11:45 am]

BILLING CODE 0000-00-M

federal register

Wednesday
January 2, 1985

PART II

Department of Energy

10 CFR Part 903

Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions; Proposed Revision to Regulations

DEPARTMENT OF ENERGY

10 CFR Part 903

Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions

AGENCY: Department of Energy.

ACTION: Proposed revision to regulations.

SUMMARY: Notice is given of proposed revisions in existing regulations which appear in 10 CFR Part 903 concerning procedures for public participation in power and transmission rate adjustments and extensions for four Power Marketing Administrations (PMAs) of the Department of Energy: The Alaska Power Administration, Southeastern Power Administration, Southwestern Power Administration, and Western Area Power Administration. The Bonneville Power Administration is not included because the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (December 5, 1980), establishes unique procedural requirements for Bonneville rate adjustments. Revisions in the regulations are necessary to conform to the delegations of authority by the Secretary of Energy in Delegation Order No. 0204–108, 48 FR 55664 (December 14, 1983). Other changes are made to simplify the regulations and allow more flexibility in their application. The regulations govern the development of rate proposals by the Administrators of the four PMAs and the confirmation and approval of rates on an interim basis by the Deputy Secretary.

DATES: Written comments should be received on or before March 4, 1985.

ADDRESSES: Written comments should be submitted to: Director, Office of Power Marketing Coordination, Department of Energy, CE–90, 1000 Independence Avenue, SW, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: J. Emerson Harper, Office of Power Marketing Coordination, Department of Energy, CE–90, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–1040.

SUPPLEMENTARY INFORMATION: The existing regulations in 10 CFR Part 903, Subpart A, set forth the procedures for public participation in the development of power and transmission rates for the Alaska, Southeastern, Southwestern and Western Area Power Administrations. The Bonneville Power Administration is not included because section 7 of the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501 (December 5, 1980), establishes unique procedural requirements for Bonneville rate adjustments.

The existing regulations were published in the Federal Register on December 31, 1980 (44 FR 86983). They supplement Delegation Order No. 0204–33, which became effective January 1, 1979. That delegation order, among other things, authorized the Assistant Secretary for Conservation and Renewable Energy (originally the Assistant Secretary for Resource Applications) to develop power and transmission rates, acting by and through the Administrators of the power marketing administrations (PMAs), and to confirm, approve and place such rates into effect on an interim basis. The Federal Energy Regulatory Commission (FERC) was given the authority to confirm and approve such rates on a final basis or to disapprove them.

Delegation Order No. 0204–108, which became effective on December 14, 1983 (48 FR 55664), replaced Delegation Order No. 0204–33. Among other changes the new delegation order gave the authority to confirm and approve rates on an interim basis to the Deputy Secretary rather than the Assistant Secretary; provided that rates would be developed by the Administrators; authorized the Administrators to submit rates to the FERC for confirmation and approval on a final basis without prior confirmation and approval on an interim basis; gave the Administrators the authority to put rates for short-term sales into effect on a final basis; and required a certification by the Administrator that the rate is consistent with applicable law and is the lowest possible rate to customers consistent with sound business principles. The proposed revisions to Part 903 incorporate these changes.

The proposed regulations also make several changes, based on four years of experience with the existing procedures, primarily for the purpose of simplifying the regulations and providing more flexibility in their application. The following are the principal changes: The minimum consultation and comment period in § 903.14 for major rate adjustments has been reduced from 90 days to 45 days; and the minimum 30-days for the comment period for minor rate adjustments in § 903.14 and for revised Proposed Rates in § 903.18 has been eliminated. Subsection (c) has been added to both § 903.15 and § 903.16 authorizing the Administrator to dispense with public information forums and public comment forums if he or she determines that there is no interest in holding them. A provision for informal public meetings for minor rate adjustments has been added. Rates for short term sales are exempted from the regulations at the discretion of the Administrator. The defined terms "Minor new service," "New service," "Revised Proposed Rates" and "Proposed Substitute Rates" have been deleted. The definition of "Rate" has been revised to delete the reference to surcharges and discounts. A sentence has been added explaining that FERC confirmation of a higher Substitute Rate on a final basis constitutes final confirmation of the lower Provisional Rate during the interim period, that it was in effect. The provisions relating to refunds have been simplified. The authority of the Deputy Secretary to extend rates on a temporary basis pending further proceedings has been recognized.

Persons interested in commenting on the proposed regulations may do so by submitting written comments to the Director of the Office of Power Marketing Coordination at the address shown above within sixty days of the date this notice is published in the Federal Register.

Executive Order 12291

Under the provisions of section 3 of Executive Order 12291, dated February 17, 1981, a Regulatory Impact Analysis must be made prior to the publication of a major rule. The proposed revision of the regulations are of technical nature and simplify procedural requirements applicable to the development of rates. They are considered to be non-major rules within the meaning of the Executive Order. Regulations relating to the sale of electrical power by the various power marketing administrations have been exempted by the Office of Management and Budget (OMB) from prepromulgation review by that agency. Accordingly, no clearance of these proposed regulations by OMB is required.

Regulatory Flexibility Act

Pursuant to sections 601 and 603 of the Regulatory Flexibility Act of 1980 (16 U.S.C. 601, et seq.) each agency when required to publish a general notice of proposed rulemaking for any proposed rule shall prepare for public comment an initial; Regulatory Flexibility Analysis to describe the impact of the proposed rule on small entities. Under section 601(2) of this Act, "rates", "prices" or "practices" "relating to rates and prices," as used in this Act, are not considered rules for purposes of the Act. The proposed regulations establish revised procedures and practices for the development of

rates at which power is sold by the power marketing administrations. It follows that the regulations are exempt from the Act. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982) requires that certain information collection requirements be approved by the Office of Management and Budget before information is demanded of the public. OMB has issued a final rule controlling Paperwork Burdens on the Public, 48 FR 13666 (March 31, 1983). Ample opportunity is provided in the proposed rules for the interested public to participate with the power marketing administrations in the development of rates. Nevertheless, this is at their sole election. There is no requirement that members of the public participating in the development of rates supply information about themselves to the Government. It follows that the proposed regulations are exempt from the Paperwork Reduction Act.

List of Subjects in 10 CFR Part 903

Electric power rates.

Issued at Washington, D.C., 12–20, 1984.

Danny J. Boggs,

Deputy Secretary.

Accordingly, Title 10, Part 903 is proposed to be revised to read as set forth below:

PART 903—POWER AND TRANSMISSION RATES

Subpart A—Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations

Sec.

903.1 Purpose and scope; application.
903.2 Definitions.
903.11 Advance announcement of rate adjustment.
903.13 Notice of proposed rates.
903.14 Consultation and comment period.
903.15 Public information forums.
903.16 Public comment forums.
903.17 Informal public meetings for minor rate adjustments.
903.18 Revision of proposed rates.
903.21 Completion of rate development; provisional rates.
903.22 Final rate approval.
903.23 Rate extensions.

Authority: Secs. 301(b), 302(a), and 644 of Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 et seq.); section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); the Reclamation Act of 1902 (43 U.S.C. 372 et seq.), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the Acts specifically applicable to individual projects or power systems.

§ 903.1 Purpose and scope; application.

(a) Except as otherwise provided herein, these regulations establish procedures for the development of power and transmission rates by the Administrators of the Alaska, Southeastern, Southwestern, and Western Area Power Administrations; for the providing of opportunities for interested members of the public to participate in the development of such rates; for the confirmation, approval, and placement in effect on an interim basis by the Deputy Secretary of the Department of Energy of such rates; and for the submission of such rates to the Federal Energy Regulatory Commission with or without prior interim approval. These regulations supplement Delegation Order No. 0204–108 of the Secretary of Energy, which was published in the **Federal Register** and became effective on December 14, 1983 (48 FR 55664), with respect to the activities of the Deputy Secretary and the Administrators.

(b) These procedures shall apply to all power and transmission rate adjustment proceedings for the Power Marketing Administrations (PMAs) which are commenced after these regulations become effective or were in process on the effective date of these regulations, but for which the FERC had not issued any substantive orders on or before December 14, 1983. These procedures supersede "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations" published in 45 FR 86983 (December 31, 1980) and amended at 46 FR 6864 (January 22, 1981) and 46 FR 25427 (May 7, 1981).

(c) Except to the extent deemed appropriate by the Administrator, these procedures are not applicable to rates for short term sales of capacity, energy, or transmission service.

§ 903.2 Definitions.

As used herein—

(a) "Administrator" means the Administrator of the PMA whose rate is involved in the rate adjustment, or anyone acting in such capacity.

(b) "Department" means the Department of Energy, including the PMAs but excluding the Federal Energy Regulatory Commission.

(c) "Deputy Secretary" means the Deputy Secretary of the Department of Energy, or anyone acting in such capacity.

(d) "FERC" means the Federal Energy Regulatory Commission.

(e) "Major rate adjustment" means a rate adjustment other than a minor rate adjustment.

(f) "Minor rate adjustment" means a rate adjustment which (1) will produce less than 1 percent change in the annual revenues of the power system or (2) is for a power system which has either annual sales normally less than 100 million kilowatthours or an installed capacity of less than 20,000 kilowatts.

(g) "Notice" means the statement which informs customers and the general public of Proposed Rates or proposed rate extensions, opportunities for consultation and comment, and public forums. The Notice shall be by and effective on the date of publication in the **Federal Register**. Whenever a time period is provided, the date of publication in the **Federal Register** shall determine the commencement of the time period, unless otherwise provided in the Notice. The Notice shall include the name, address, and telephone number of the person to contact if participation or further information is sought.

(h) "Power Marketing Administration" or "PMA" means the Alaska Power Administration, Southeastern Power Administration, Southwestern Power Administration, or Western Area Power Administration.

(i) "Power system" means a powerplant or a group of powerplants and related facilities, including transmission facilities, or a transmission system, that the PMA treats as one unit for the purposes of establishing rates and demonstrating repayment.

(j) "Proposed Rate" means a rate revision or a rate for a new service which is under consideration by the Department on which public comment is invited.

(k) "Provisional Rate" means a rate which has been confirmed, approved, and placed in effect on an interim basis by the Deputy Secretary.

(l) "Rate" means the monetary charge or the formula for computing such a charge for any electric service provided by the PMA, including but not limited to charges for capacity (or demand), energy, or transmission service; however, it does not include leasing fees, service facility charges, or other types of facility use charges. A rate may be set forth in a rate schedule or in a contract.

(m) "Rate adjustment" means a change in an existing rate or rates, or the establishment of a rate or rates for a new service. It does not include a change in rate schedule provisions or in

contract terms, other than changes in the price per unit of service, nor does it include changes in the monetary charge pursuant to a formula stated in a rate schedule or a contract.

(n) "Rate schedule" means a document identified as a "rate schedule," "schedule of rates," or "schedule rate" which designates the rate or rates applicable to a class of service specified therein and may contain other terms and conditions relating to the service.

(o) "Short term sales" means sales that last for no longer than one year.

(p) "Substitute Rate" means a rate which has been developed in place of the rate that was disapproved by the FERC.

§ 903.11 Advance announcement of rate adjustment.

The Administrator may announce that the development of rates for a new service or revised rates for an existing service is under consideration. The announcement shall contain pertinent information relevant to the rate adjustment. The announcement may be through direct contact with customers, at public meetings, by press release, by newspaper advertisement, and/or by Federal Register publication. Written comments relevant to rate policy and design and to the rate adjustment process may be submitted by interested parties in response to the announcement. Any comments received shall be considered in the development of Proposed Rates.

§ 903.13 Notice of proposed rates.

(a) The Administrator shall give Notice that Proposed Rates have been prepared and are under consideration. The Notice shall include:

(1) The Proposed Rates;

(2) An explanation of the need for and derivation of the Proposed Rates;

(3) The locations at which data, studies, repoorts, or other documents used in developing the Proposed Rates are available for inspection and/or copying;

(4) The dates, times, and locations of any inititally scheduled public forums; and

(5) Addresses to which written comments relative to the Proposed Rates and requests to be informed of FERC actions concerning the rates may be submitted.

(b) Upon request, customers of the power system and other interested persons will be provided with copies of the principal documents used in developing the Proposed Rates.

§ 903.14 Consultation and comment period.

All interested persons will have the opportunity to consult with and obtain information from the PMA, to examine backup data, and to make suggestions for modification of the Proposed Rates for a period ending (a) 45 days after the Notice of Proposed Rates is published in the Federal Register, in the case of major rate adjustments, except that such periods may be shortened for good cause shown; (b) 15 days after written answer is provided pursuant to § 903.15(b) hereof; (c) 15 days after the close of the last public forum; or (d) such other time as the Administrator may designate; whichever is later. For minor rate adjustments the consultation and comment period shall be for such period as the Administrator shall designate. At any time during this period, interested persons may submit written comments to the PMA regarding the Proposed Rates. The Administrator may also provide additional time for the submission of written rebuttal comments. All written comments shall be available at a designated location for inspection, and copies also will be furnished on request for which the Administrator may assess a fee. Prior to the action described in § 903.21, the Administrator may, by appropriate announcement postpone any procedural date or make other procedural changes. The Administrator shall maintain, and distribute on request, a list of interested persons.

§ 903.15 Public information forums.

(a) One or more public information forums shall be held for major rate adjustments, except as otherwise provided in paragraph (c) of this section, and may be held for minor adjustments, to explain, and to answer questions concerning, the Proposed Rates and the basis of and justification for proposing such rates. The number, dates, and locations of such forums will be determined by the Administrator in accordance with the anticipated or demonstrated interest in the Proposed Rates. Notice shall be given in advance of such forums. A public information forum may be combined with a public comment forum held in accordance with § 903.16.

(b) The Administrator shall appoint a forum chairperson. Questions raised at the forum concerning the Proposed Rates and the studies shall be answered by PMA representatives at the forum, at a subsequent forum, or in writing at least 15 days before the end of the consultation and comment period. However, questions that involve voluminous data contained in the PMA records may be answered by providing an opportunity for consultation and for a review of the records at the PMA offices. As a minimum, the proceedings of the forum held at the principal location shall be transcribed. Copies of all documents introduced, and of questions and written answers shall be available at a designated location for inspection and copies will be furnished by the Administrator on request, for which a fee may be assessed. Copies of the transcript may be obtained from the transcribing service.

(c) No public information forum need be held for major rate adjustments if the Administrator determines that there is no significant interest in holding one.

§ 903.16 Public comment forums.

(a) One or more public comment forums shall be held for major rate adjustments, except as otherwise provided in paragraph (c) of this section, and may be held for minor rate adjustments, to provide interested persons an opportunity for oral presentation of views, data, and arguments regarding the Proposed Rates. The number, dates, and locations of such forums will be determined by the Administrator in accordance with the anticipated or demonstrated interest in the Proposed Rates. Notice shall be given at least 30 days in advance of the first comment forum at each location and shall include the purpose, date, time, place, and other information relative to the forum, as well as the locations where pertinent documents are available for examination and/or copying.

(b) The Administrator shall designate a forum chairperson. At the forum, PMA representatives may question those persons making oral statements and comments. The chairperson shall have discretion to establish the sequence of the time limits for oral presentations and to determine if the comments are relevant and noncumulative. Forum proceedings shall be transcribed. Copies of all documents introduced shall be available at a designated location for inspection, and copies shall be furnished on request for which the Administrator may assess a fee. Copies of the transcript may be obtained from the transcribing service.

(c) No public comment forum need be held for major rate adjustments if the Administrator determines that there is no significant interest in holding one.

§ 903.17 Informal public meetings for minor rate adjustments.

In lieu of public information or comment forums in conjunction with a

minor rate adjustment, informal public meetings may be held if deemed appropriate by the Administrator. Such informal meetings will not require a Notice or a transcription.

§ 903.18 Revision of proposed rates.

During or after the consultation and comment period and review of the oral and written comments on the Proposed Rates, the Administrator may revise the Proposed Rates. If the Administrator determines that further public comment should be invited, the Administrator shall afford interested persons an appropriate period to submit further written comments to the PMA regarding the revised Proposed Rates. The Administrator may convene one or more additional public information and/or public comment forums. The Administrator shall give Notice of any such additional forums.

§ 903.21 Completion of rate development; provisional rates.

(a) Following completion of the consultation and comment period and review of any oral and written comments on the Proposed Rates, the Administrator may: (1) Withdraw the proposal; (2) develop rates which in the Administrator's and the Deputy Secretary's judgment should be confirmed, approved, and placed into effect on an interim basis; or (3) develop rates which in the Administrator's judgment should be confirmed, approved, and placed into effect by the FERC on a final basis without being placed into effect on an interim basis. A statement shall be prepared and made available to the public setting forth the principal factors on which the Deputy Secretary's or the Administrator's decision was based. The statement shall include an explanation responding to the major comments, criticisms, and alternatives offered during the comment period. The Administrator shall certify that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles. The rates shall be submitted promptly to the FERC for confirmation and approval on a final basis.

(b) The Deputy Secretary shall set the effective date for the Provisional Rates.

(c) The effective date may be adjusted by the Administrator to coincide with the beginning of the next billing period following the effective date set by the Deputy Secretary for the Provisional Rates.

(d) Provisional Rates shall remain in effect on an interim basis until: (1) They are confirmed and approved on a final basis by the FERC, (2) they are disapproved and the rates last previously confirmed and approved on a final basis become effective, (3) they are disapproved and higher Substitute Rates are confirmed and approved on a final basis and placed in effect by the FERC, (4) they are disapproved and lower Substitute Rates are confirmed and approved on a final basis by the FERC, or (5) they are superseded by other Provisional Rates placed in effect by the Deputy Secretary, whichever occurs first.

§ 903.22 Final rate approval.

(a) Any rate submitted to the FERC for confirmation and approval on a final basis shall be accompanied with such supporting data, studies, and documents as the FERC may require; and also the transcripts of forums; written answers to questions; written comments; the Administrator's certification; and the statement of principal factors leading to the decision. The FERC shall also be furnished a listing of those customers and other participants in the rate proceeding who have requested they be informed of FERC action concerning the rates.

(b) If the FERC confirms and approves Provisional Rates on a final basis, such confirmation and approval shall be effective as of the date such rates were placed in effect by the Deputy Secretary, as such date may have been adjusted by the Administrator. If the FERC confirms and approves on a final basis rates submitted by the Administrator without interim approval, such confirmation and approval shall be effective on a date set by the FERC.

(c) If the FERC disapproves Provisional Rates or other submitted rates, the Administrator shall develop Substitute Rates which take into consideration the reasons given by the FERC for its disapproval. If, in the Administrator's judgment, public comment should be invited upon proposed Substitute Rates, the Administrator may provide for a public consultation and comment period before submitting the Substitute Rates. Whether or not such public consultation and comment periods are provided, the Administrator will, upon request, provide customers of the power system and other interested persons with copies of the principal documents used in the development of the Substitute Rates. Within 120 days of the date of FERC disapproved of submitted rates, including Substitute Rates, or such additional time periods as the FERC may provide, the Administrator will submit the Substitute Rates to the FERC. A statement explaining the Administrator's decision shall accompany the submission.

(d) A Provisional Rate that is disapproved by the FERC shall remain in effect until higher or lower rates are confirmed and approved by the FERC on a final basis or are superseded by other rates and placed into effect by the Deputy Secretary on an interim basis: *Provided,* That if the Administrator does not file a Substitute Rate within 120 days of the disapproval or such greater time as the FERC may provide, and if the rate has been disapproved because the FERC determined that it would result in total revenues in excess of those required by law, the rate last previously confirmed and approved on a final basis will become effective on a date and for a period determined by the FERC and revenues collected in excess of such rate during such period will be refunded in accordance with paragraph (g) of this section.

(e) If a Substitute Rate confirmed and approved on a final basis by the FERC is higher than the rate which was disapproved, the Substitute Rate shall become effective on a subsequent date set by the FERC, unless a subsequent Provisional Rate even higher than the Substitute Rate has been put into effect. FERC confirmation and approval of the higher Substitute Rate shall constitute final confirmation and approval of the lower disapproved Provisional Rate during the interim period that it was in effect.

(f) In the case where a Substitute Rate confirmed and approved by the FERC on a final basis is lower than the disapproved rate placed in effect on an interim basis, such lower rate shall be effective as of the date the higher disapproved rate was placed in effect.

(g) Any overpayment shall be refunded with interest unless the FERC determines that the administrative cost of a refund would exceed the amount to be refunded, in which case no refund will be required. The interest rate applicable to any refund will be determined by the FERC.

(h) A rate confirmed and approved by the FERC on a final basis shall remain in effect for such period or periods as the FERC may provide or until a different rate is confirmed, approved and placed in effect on an interim or final basis: *Provided,* That the Deputy Secretary may extend a rate on an interim basis beyond the period specified by the FERC.

§ 903.23 Rate extensions.

(a) The following regulations shall apply to the extension of rates which were previously confirmed and

approved by the FERC or the Federal Power Commission, or established by the Secretary of the Interior, and for which no adjustment is contemplated:

(1) The Administrator shall give Notice of the proposed extension at least 30 days before the expiration of the prior confirmation and approval, except that such period may be shortened for good cause shown.

(2) The Administrator may allow for consultation and comment, as provided in these procedures, for such period as the Administrator may provide. One or more public information and comment forums may be held, as provided in these procedures, at such times and locations and with such advance Notice as the Administrator may provide.

(3) Following the conclusion of the consultation and comment period, the Deputy Secretary may extend the rates on an interim basis.

(b) Provisional Rates and other existing rates may be extended on a temporary basis by the Deputy Secretary without advance notice or comment pending further action pursuant to these regulations or by the FERC. The Deputy Secretary shall publish notice in the **Federal Register** of such extension and shall promptly advise the FERC of the extension.

[FR Doc. 84-33858 Filed 12-31-84; 8:45 am]
BILLING CODE 6450-01-M

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Federal Register

Vol. 50, No. 1

Wednesday, January 2, 1985

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FEDERAL REGISTER PAGES AND DATES, JANUARY

1-210.....2

LIST OF PUBLIC LAWS

Note: The President completed his consideration of acts and joint resolutions passed during the second session of the 98th Congress on November 8, 1984.

Last list November 16, 1984.

The list will be resumed when bills are enacted into public law during the first session of the 99th Congress which convenes on January 3, 1985.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JANUARY 1985

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
January 2	January 17	February 1	February 19	March 4	April 2
January 3	January 18	February 4	February 19	March 4	April 3
January 4	January 22	February 4	February 19	March 5	April 4
January 7	January 22	February 6	February 21	March 8	April 8
January 8	January 23	February 7	February 22	March 11	April 8
January 9	January 24	February 8	February 25	March 11	April 9
January 10	January 25	February 11	February 25	March 11	April 10
January 11	January 28	February 11	February 25	March 12	April 11
January 14	January 29	February 13	February 28	March 15	April 15
January 15	January 30	February 14	March 1	March 18	April 15
January 16	January 31	February 15	March 4	March 18	April 16
January 17	February 1	February 19	March 4	March 18	April 17
January 18	February 4	February 19	March 4	March 19	April 18
January 22	February 6	February 21	March 8	March 25	April 22
January 23	February 7	February 22	March 11	March 25	April 23
January 24	February 8	February 25	March 11	March 25	April 24
January 25	February 11	February 25	March 11	March 26	April 25
January 28	February 12	February 27	March 14	March 29	April 29
January 29	February 13	February 28	March 15	April 1	April 29
January 30	February 14	March 1	March 18	April 1	April 30
January 31	February 15	March 4	March 18	April 1	May 1

CFR ISSUANCES 1984
Complete Listing of 1984 Editions and Projected January, 1985 Editions

This list sets out the CFR issuances for the **1984** editions and projects the publication plans for the **January, 1985** quarter. A projected schedule that will include the **April, 1985** quarter will appear in the first **Federal Register** issue of April.

For pricing information on available 1984-1985 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The weekly CFR checklist or the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1-16—January 1
Titles 17-27—April 1
Titles 28-41—July 1
Titles 42-50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

*Indicates volume is still in production.

Titles revised as of January 1, 1984:

Title	
CFR Index	1-199
	200-End
1-2	
	10 Parts:
3 (Compilation)	0-199
	200-399
4	400-499
	500-End
5 Parts:	
1-1199	**11** (Revised as of Apr. 1, 1984)
1200-End	
	12 Parts:
6 [Reserved]	1-199
	200-299
7 Parts:	300-499
0-45	500-End
46-51	
52	**13**
53-209	
210-299	**14 Parts:**
300-399	1-59
400-699	60-139
700-899	140-199
900-999	200-1199
1000-1059	1200-End
1060-1119	
1120-1199	**15 Parts:**
1200-1499	0-299
1500-1899	300-399
1900-1944	400-End
1945-End	
	16 Parts:
8	0-149
	150-999
9 Parts:	1000-End

Titles revised as of April 1, 1984:

Title	
17 Parts:	240-End
1-239	
18 Parts:	0-199
1-149	200-499
150-399	500-699
400-End	700-1699
	1700-End
19	
	25
20 Parts:	
1-399	**26 Parts:**
400-499	1 (§§ 1.0-1-1.169)
500-End	1 (§§ 1.170-1.300)
	1 (§§ 1.301-1.400)
21 Parts:	1 (§§ 1.401-1.500)
1-99	1 (§§ 1.501-1.640)
100-169	1 (§§ 1.641-1.850)
170-199	1 (§§ 1.851-1.1200)
200-299	1 (§§ 1.1201-End)
300-499	2-29
500-599	30-39
600-799	40-299
800-1299	300-499
1300-End	500-599 (Cover only)
	600-End
22	
	27 Parts:
23	1-199
	200-End
24 Parts:	

Titles revised as of July 1, 1984:

Title	
28	
	35
29 Parts:	
0-99	**36 Parts:**
100-499	1-199
500-899	200-End
900-1899	
1900-1910	37
1911-1919	
1920-End	**38 Parts:**
	0-17
30 Parts:	18-End
0-199 (Previously listed as revised as of Oct. 1, 1984)	39
200-699	
700-End	**40 Parts:**
	1-51
31 Parts:	52
0-199	53-80
200-End	81-99
	100-149
32 Parts:	150-189
1-39, Vol. I	190-399
1-39, Vol. II	400-424
1-39, Vol. III	425-End
40-169	
190-399	**41 Parts:**
400-629	Ch. 1 (1-1 to 1-10)
630-699	Ch. 1 (1-11 to App.)-2
700-799	Ch. 3-6
800-999	Ch. 7
1000-End	Ch. 8
	Ch. 9
33 Parts:	Ch. 10-17
1-199	Ch. 18, Vol. I
200-End	Ch. 18, Vol. II
	Ch. 18, Vol. III
34 Parts:	Ch. 19-100
1-299	Ch. 101
300-399	Ch. 102-End
400-End	

Titles revised as of October 1, 1984:

Title

42 Parts:
1–60
61–399
400–End*

43 Parts:
1–999
1000–3999*
4000–End

44*

45 Parts:
1–199
200–499
500–1199
1200–End

46 Parts:
1–40
41–69
70–89
90–139
140–155
156–165
166–199
200–499
500–End* (Revised as of Dec. 31, 1984)

47 Parts:
0–19
20–69*
70–79*
80–End*

48 Parts:
Ch. 1 (1–51)
Ch. 1 (52–99)
Ch. 2*
Chs. 3–6*
Chs. 7–14*
Chs. 15–End*

49 Parts:
1–99
100–177* (Revised as of Nov. 1, 1984)
178–199* (Revised as of Nov. 1, 1984)
200–399
400–999
1000–1199
1200–1299
1300–End

50 Parts:
1–199*
200–End*

Projected January 1, 1985 editions:

Title

CFR Index
200–End

1–2 (To be announced)

3 (Compilation)

4

5 Parts:
1–1199 (To be announced)
1200–End (To be announced)

6 [Reserved]

7 Parts:
0–45
46–51
52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1944
1945–End

8

9 Parts:
1–199

10 Parts:
0–199
200–399
400–499
500–End

11

12 Parts:
1–199
200–299
300–499
500–End

13

14 Parts:
1–59
60–139
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